

City Hall – Council Chambers
206 N. Main St.
Toledo, Oregon 97391
6:00 p.m.

TOLEDO CITY COUNCIL
Work Session – also via Zoom Meeting Platform
July 27, 2022

Virtual Meeting: The City Council will hold the meeting for the City Council and staff in person as well as through the Zoom video meeting platform. The public is encouraged to attend the meeting electronically.

Public Comments: The City Council may take limited verbal comments during the meeting. Written comments may be submitted by email to lisa.figueroa@cityoftoledo.org 3:00 p.m. the day of the meeting to be included in the record. Comments received will be shared with the City Council and included in the record.

1. **Call to Order, Pledge of Allegiance and roll call**
2. **Visitors/Public Comment**
(The public comment period provides the public with an opportunity to address the City Council regarding items not on the agenda. Please limit your comments to three (3) minutes).
3. **Consent Agenda**
Minutes from the executive session held June 15, 2022 and the work session held June 22, 2022
4. **Discussion Items**
There are no items for consideration
5. **Decision Items**
 - Selecting 2023 Legislative priorities
 - Funding request of up to \$38,500 for street line painting
 - Authorize Expenditure of approximately \$93,000 for infrastructure improvements
 - Approve an expenditure of approximately \$100,900 for equipment replacement
 - Approve Declaration of Cooperation for Preliminary Steps to Develop a Homeless Response System for Lincoln County
 - Informing Council of Leaking Underground Storage Tank Clean Up and delegating Authority to City Manager to sign Leaking Underground Storage Tank Cost Recovery Agreement with Department of Environmental Quality
6. **Reports and Comments**
 - Committee updates
7. **Adjournment**

Comments submitted in advance are preferable. Comments may be submitted by e-mail at lisa.figueroa@cityoftoledo.org. The meeting is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting by calling city offices at (541) 336-2247.

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**TOLEDO CITY COUNCIL
EXECUTIVE SESSION**

June 15, 2022

5:30 p.m.

1. EXECUTIVE SESSION

Mayor Rod Cross called the Executive Session to order at 5:36 p.m. electronically via Zoom in Toledo, Oregon. He read the declaration of meeting in Executive Session under the provisions of ORS 192.660(2)(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Representatives of the news media and designated staff were allowed to attend the Executive Session. All other members of the audience were prohibited. Representatives of the news media were specifically directed not to report on any of the deliberations except to state the general subject of the session as previously announced.

Present	Absent	
X		Mayor Rod Cross
X		Councilor Betty Kamikawa
X		Councilor Rob Duprau
X		Councilor Todd Michels
	X	Councilor Jackie Kauffman
X		Councilor Wade Carey
X		Councilor Tracy Mix
X		City Manager Judy Richter
X		City Recorder Lisa Figueroa
X		City Attorney Mike Adams
		Fire Chief Larry Robeson
		Police Chief Mike Pace
		Library Director Deborah Trusty
		Public Works Director Bill Zuspan

No decisions were made in Executive Session.

2. ADJOURNMENT

The Executive Session adjourned at 5:51 p.m.

APPROVE:

ATTEST:

Mayor Rod Cross

City Recorder Lisa Figueroa

TOLEDO CITY COUNCIL
WORK SESSION
June 22, 2022
6:00 p.m.

1. CALL TO ORDER

Mayor Rod Cross called the meeting to order at 6:00 p.m. also via Zoom in Toledo, Oregon.

Present	Absent	
X		Mayor Rod Cross
X		Council President Betty Kamikawa
X		Councilor Jackie Kauffman
X		Councilor Rob Duprau
X		Councilor Todd Michels
	X	Councilor Wade Carey
X		Councilor Tracy Mix

Staff present: City Manager (CM) Judy Richter, Accounting Supervisor (AS) Cindy Oleman, Police Chief (PC) Michael Pace, Public Works Director (PWD) Bill Zuspan, Fire Chief (FC) Larry Robeson, Library Director, Deborah Trusty, City Attorney (CA) Mike Adams, Planning Assistant (PA) Arlene Inukai

2. PRESENTATIONS

Toledo Welcome Signs

David Robinson, Toledo Chamber of Commerce Board Member addressed the Council on behalf of the Chamber and referenced the materials included in the packet in regards to the entryway signs. He indicated the Chamber has been paying the electric bill for them but the City owns the signs. He indicated there was discussion on who has priority over what banners can be hung on the signs and noted that if the City is priority, then the Chamber should be reimbursed for paying the electric bills. It was noted the City pays insurance for the signs and maintains the landscape and the Council inquired whether the Chamber would take over those tasks if they took ownership of them. Mr. Davidson replied the Chamber does not have enough resources to maintain the landscape. After further discussion, the Council recommended this be brought back for more discussion at a future meeting.

3. JOINT MEETING WITH THE PLANNING COMMISSION

Comprehensive Plan Update

Planning Commissioners present: Cora Warfield, Anne Learned-Ellis, Jonathan Mix, Ricky Dyson

CP Peterson provided presentation for the Comprehensive Plan (Plan) update. He said the Plan is a 20 year planning guide and noted the last update was conducted over 20 years ago. He said there were amendments to the Transportation Plan and the Economic Chapter. He said the document is not a static document and can evolve. He referenced the timeline included in the council packet and reviewed the upcoming meeting dates. He noted the Plan requires public input and noted a survey is available on the city website for people to fill out. He said the City is working with a consultant to analyze housing capacity within the City. He provided a description of the Plan update, which would include new chapters such as communications via social media and addressing hybrid in-person/virtual meetings. It was suggested to include mention of Georgia-Pacific Mill in the Plan. CP Peterson said he plans to recruit one to two Planning

Commissioners/Council Members to work on a vision/mission of the Plan. It was suggested to include Then/Now photos to compare the City's history and present in the Plan. The Council and Planning Commission provided suggestions to the Plan update in regards to highlights and after further discussion, CP Peterson said he could provide another update in the fall.

CP Peterson said there is a housing code update, which will allow greater flexibility on what is permitted on residential lots. He said it would permit duplexes or cottage clusters on said lots with a public process but it provides more opportunities for the City.

The Council recessed at 7:15 p.m. and reconvened at 7:20 p.m.

4. JOINT MEETING WITH THE TOLEDO CEMETERY ASSOCIATION

Toledo Cemetery Association (TCA) members present; Larry Davis, Merrick Kriz and Antony Molina

Mr. Davis asked if the City Council had any questions in regards to the counter-proposal shared by CM Richter. The Council asked why the TCA can sell the 2.8 acres now and it was clarified the property can be sold once it is declared as unusable. Mr. Davis said the TCA has concern over any future indemnifications because of unforeseen circumstances. The Council did not have any other questions and indicated they would meet in an executive session to discuss the counter-proposal.

5. VISITORS/PUBLIC COMMENT

There were no comments.

6. CONSENT AGENDA

Minutes from the meeting held June 1, 2022 and Resolution No. 1500, A resolution updating the Master Fee Schedule for services provided by the City of Toledo and repealing Resolution No. 1461A

Motion – it was moved and seconded (Mix/Michels) to approve the consent agenda as presented and the motion carried unanimously.

7. DISCUSSION ITEMS

There were no items for consideration.

8. DECISION ITEMS

Approval of adding Children's Library Specialist to the Toledo Employees' Association Master Salary Schedule

LD Trusty provided the council report. She noted this is a follow up to the pay equity study conducted a couple of years ago. She said at that time the consultant could not adequately compare the position to other similar positions and recommended the position/title be split. CM Richter indicated there is no change to the budget, but there will be an additional line added to reflect the change.

Motion – It was moved and seconded (Mix/Michels) to approve the addition of Children's Library Specialist to the Toledo Employees Association Master Salary Schedule effective July 1, 2022 and the motion carried unanimously.

Resolution No 1501 A resolution setting the Street Lighting Fee for the 2022-2023 Fiscal Year and Repealing Resolution No. 1470

CM Richter said this came before the Council for discussion and they directed staff to raise the fees incrementally by 25% or \$0.75 for residential. She noted as she prepared the resolution, she realized there was an ‘industrial and commercial’ street light utility fee and increased those by 25% as well.

Motion – It was moved and seconded (Kamikawa/Duprau) to adopt Resolution No. 1501, a resolution of the Toledo City Council setting the Street Lighting Fee for the 2022-2023 Fiscal Year and Repealing Resolution No. 1470 and the motion carried unanimously.

CM Richter noted there is a scrivener’s error in the last line of the Resolution that states it was adopted in July and not June and she said she would fix that error. There were no concerns from the City Council.

9. REPORTS AND COMMENTS

LD Trusty thanked the Police Department for their assistance on retrieving one of their overdue laptops and hot spots.

PWD Zuspan reported on department activities, including the water line project on Alder Lane. He said the Mill Creek pipe project was started this week. He said there was some damage to Memorial Field last week and it will be relocated off of the field this week.

AS Oleman said the finance department is preparing the final budget to file with the state.

CA Adams said he spoke with Mr. Liebenstein, who agreed to pay back the City for the grant and fines of \$7,338 out of closing and said he would dismiss the lawsuit against Mr. Liebenstein. He informed the Council he will present a livability code to the Council in the future.

CM Richter indicated the City is waiting to update the Springbrook software, which should take approximately six weeks. She said she was surprised the insurance premiums increased by only 12.9% instead of the 20% she budgeted. She said a new mural was started this week and informed the Council she will be on vacation next week. She announced the employee appreciation event on July 24, she invited the Council and asked them to RSVP if they plan to attend.

CP Kamikawa reminded everyone the window is open to apply for Council candidacy.

Mayor Cross reported Lincoln County received \$1 million to setup a framework to address the homeless issue. He reported on upcoming meetings.

10. ADJOURNMENT

The work session adjourned at 8:12 p.m.

Approve:

Attest:

Mayor Rod Cross

City Recorder Lisa Figueroa

Lisa Figueroa

Subject: FW: REMINDER: League of Oregon Cities - 2023 Legislative Priorities Ballot
Attachments: 2023 Legislative Priorities Ballot v.2.pdf

From: LOC [<mailto:loc@orcities.org>]
Sent: Friday, July 8, 2022 11:06 AM
Subject: REMINDER: League of Oregon Cities - 2023 Legislative Priorities Ballot

Good morning,

This is a friendly reminder to please complete the League of Oregon Cities - 2023 Legislative Priorities Ballot if you have not already done so. **The deadline for submitting your city's vote is 5:00 p.m. on August 5, 2022.**

Each even-numbered year the League of Oregon Cities (LOC) appoints members to serve on 7 policy committees. These policy committees are the foundation of the LOC's policy development process. Composed of city officials, these committees are charged with analyzing policy and technical issues and recommending positions and strategies for the LOC. For the past three months, these 7 policy committees have been working to identify and propose specific actions as part of the LOC's effort to develop a pro-active legislative agenda for the 2023 session. Each committee provided a list of recommended policy positions and actions for the LOC to take in the coming legislative cycle. This year, all 7 committees identified between 3 to 5 legislative policy priorities to advance to the full membership and LOC Board of Directors. A detailed explanation of the process, as well as the recommended policy priorities are attached herein.

Each city is being asked to review the recommendations from the 7 policy committees and provide input to the LOC Board of Directors as it prepares to adopt the LOC's 2023 legislative agenda. After your city has had an opportunity to review the proposals, please complete the electronic ballot indicating the top 5 issues that your city would like to see the LOC focus on during the 2023 legislative session.

Each city is permitted one vote. As such, each city must designate a person to enter the vote electronically on the below link. For those cities without electronic options for voting, paper ballots may be requested from LOC's Legislative Director Jim McCauley at jmccauley@orcities.org.

All questions about the process, the policy recommendations, or completing the ballot are to be directed to Jim McCauley, Legislative Director, with questions at jmccauley@orcities.org.

The deadline for submitting your city's vote is 5:00 p.m. on August 5, 2022.

Link to ballot: https://orcities.co1.qualtrics.com/jfe/form/SV_bKiK63THwxwOCUK

Your city's participation and input will assist the Board in creating a focused set of specific legislative targets that reflect the issues of greatest importance to cities. Thank you for your involvement, and thanks to those among you who gave many hours of time and expertise in developing these proposals.

Kind Regards,



LOC Staff

503-588-6550

1201 Court St. NE, Suite 200, Salem, OR 97301-4194

www.orcities.org





2023 Legislative Priorities Ballot

Issued on June 10, 2022

Ballots due by 5:00 p.m. on August 5, 2022

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2023 Legislative Priorities Ballot – League of Oregon Cities

Background: Each even-numbered year the LOC appoints members to serve on 7 policy committees. These policy committees are the foundation of the LOC's policy development process. Composed of city officials, these committees are charged with analyzing policy and technical issues and recommending positions and strategies for the LOC. Each committee provides a list of recommended policy positions and actions for the LOC to take in the coming two year legislative cycle. This year, all 7 committees identified between 3 to 5 legislative policy priorities to advance to the full membership and LOC Board of Directors.

Ballot/Voting Process: Each city is being asked to review the recommendations from the 7 policy committees and provide input to the LOC Board of Directors as it prepares to adopt the LOC's 2023 legislative agenda. After your city has had an opportunity to review the proposals, please complete the electronic ballot indicating the top 5 issues that your city would like to see the LOC focus on during the 2023 legislative session.

Each city is permitted one vote. As such, each city must designate a person to enter the vote electronically on the below link. For those cities without electronic options for voting, paper ballots may be requested from LOC's Legislative Director Jim McCauley at jmccauley@orcities.org.

Important Deadlines: The deadline for submitting your city's vote is **5:00 p.m. on August 5, 2022.**

Ballots were emailed to the CAO of each city. If your city didn't receive the ballot, please email Jim McCauley at jmccauley@orcities.org.

Brought to you by the Community Development Policy Committee

Full Funding and Alignment for State Land Use Initiatives

Legislative Recommendation: *The LOC will support legislation to streamline and fully fund local implementation of any recently adopted or proposed state land use planning requirements, including administrative rulemaking.*

Background: Recent legislation and executive orders have made significant changes to the state's land use planning process, including increasing burdens for local government. While the LOC shares the state's policy goals, these updates have resulted in extensive, continuous, and sometimes conflicting rulemaking efforts that are not supported by adequate state funding. Cities simply do not have the staff capacity or resources needed to implement current requirements. Existing planning updates should be streamlined to enable simpler, less costly implementation and any new proposals should be aligned with existing requirements.

Local Funding to Address Homelessness

Legislative Recommendation: *The LOC will seek funding to support coordinated, local responses to addressing homelessness.*

Background: The LOC recognizes that to end homelessness, a statewide and community-based coordination approach to delivering services, housing, and programs is needed. Addressing homelessness will look different and involve different service provider partners from one city to the next, but one thing is consistent, addressing the crisis requires significant financial resources. While cities across Oregon have developed programs, expanded service efforts, built regional partnerships, and have significantly invested both their local General Fund and federal CARES Act and American Rescue Plan Act dollars into programs to address the homelessness crisis in their respective communities, the crisis continues. The homelessness crisis exceeds each city's individual capacity – necessitating the need for meaningful fiscal support from the State of Oregon.

Infrastructure Funding to Support Needed Housing

Legislative Concept: *The LOC will support state funding for infrastructure needed to support needed housing.*

Background: As Oregon works to overcome its historic housing supply deficit, development costs continue to rise. Cities have limited tools to address the rising costs of infrastructure necessary to support the impact of new housing development. A statewide fund to address infrastructure costs and improve housing affordability is needed.

Economic Development Incentives (co-sponsor with Tax and Finance Committee)

Legislative Recommendation: *The LOC will support legislation to preserve and strengthen discretionary local economic development incentives including the Enterprise Zone (EZ), Long Term Rural Enterprise Zone (LTREZ) and Strategic Investment Program (SIP).*

Background: The EZ and LTREZ programs provide local governments the option to offer a temporary full exemption from property taxes for qualified new property of a business (3 to 5 years for the standard EZ and 7 to 15 years for the rural EZ). The SIP program allows local governments to offer a 15-year

partial exemption on the value of new property that exceeds a certain investment threshold (\$25 million to \$100 million depending on location and total project value). Recent studies by Business Oregon confirmed what city economic development professionals knew; these incentive programs are crucial for Oregon to remain competitive nationally and show massive benefits to Oregon in terms of jobs, enhanced economic activity, and tax revenues. The EZ and LTREZ programs will sunset in 2025 without action by the legislature, and “gain share” provisions of the SIP program transferring a portion of income taxes resulting from qualified projects to local governments will sunset in 2026. The LOC will advocate for sunset extensions and for changes that will improve the programs, and advocate against any changes that will reduce local control or devalue the incentives.

Community Resiliency and Wildfire Planning

Legislative Recommendation: *The LOC will support investments for climate and wildfire resiliency planning, as well as infrastructure upgrades, to fill existing gaps and assist cities in planning for extreme weather events and wildfire.*

Background: Oregon communities are increasingly looking for help planning for climate change impacts, including infrastructure upgrades, to handle extreme weather events. Cities of all sizes, especially small to mid-sized cities, need technical assistance and additional capacity to better plan for and recover from climate events and wildfire. Investments in infrastructure upgrades, repairs, and resiliency will help rebuild communities, better ensure equity and access to critical services, protect public health and the environment, improve community resiliency, and promote economic recovery.

Brought to you by the General Government Policy Committee

Protecting Public Employees and Officials

Legislative Recommendation: *The LOC will introduce legislation to protect the personal contact information of public employees and increase criminal sanctions when public officials and employees are subject to criminal activity connected to their service.*

Background: Cities have seen an increase in harassments, threats and property damage in recent years. Over 80 percent of city leaders who participated in a National League of Cities [report](#) on public civility indicated they had personally experienced harassing or harmful behavior because of their role as a public official. Additionally, an ambiguity in the phrasing in a statute intended to protect the private information of public employees may require an employer to release home addresses, personal emails and contact information.

Return to Work

Legislative Recommendation: *Eliminate the sunset on the ability of retirees to return to work.*

Background: PERS covered retirees are currently allowed to return to work without suffering a tax or pension penalty until 2024. Allowing retirees to return to work allows employers to fill critical vacancies while not paying pension and other costs in times of both fiscal hardships and workforce scarcity. The sunset was established as part of a compromise PERS reform package passed in 2017 but has been successful for retirees and employers.

Attorney Client Privilege

Legislative Recommendation: *Ensure that privileged communications between public bodies and officials and their legal counsel remain confidential indefinitely.*

Background: A recent court ruling limited public sector attorney client privilege to 25 years, which is identical to the lifespan of other public records exemptions. The LOC believes that public officials should have the same right to unimpeded legal counsel as all other attorney clients.

Address Measure 110 Shortcomings

Legislative Recommendation: *Restore criminal justice incentives for seeking treatment for addiction while ensuring a path for expungement for successfully completing a treatment program.*

Background: Oregon voters passed Measure 110 in 2020 which eliminated criminal sanctions for simple possession for most narcotic drugs and replaced them with a waivable \$100 ticket. A citation cannot be issued if a person seeks treatment by calling a treatment referral service. The measure also re-dedicated local marijuana revenue to harm reductions services. Those funds are now pooled and distributed by an oversight and accountability committee. Oregon's overdose deaths continue to increase and funds that should have been distributed in January of 2021 are still not delivered. Additionally, problems related to drug abuse such as property crime have increased.

Brought to you by the Energy and Environment Policy Committee

Building Decarbonization, Efficiency, and Modernization

Legislative Recommendation: *The LOC will support legislation to protect against and rollback preemptions to allow local governments to reduce greenhouse gas emissions from new and existing buildings while ensuring reliability and affordability. Some initiatives may include a local option Reach Code, statewide home energy scoring or financial incentives like [CPACE](#).*

Background: Homes and commercial buildings need a lot of power. In fact, they consume nearly half of all the energy used in Oregon according to the Oregon Department of Energy 2020 Biennial Energy Report. Existing buildings need to be retrofitted and modernized to become more resilient and efficient. New buildings can be built with energy efficiency and energy capacity in mind, so they last longer for years to come, reduce the energy burden on occupants, and are built to a standard that is futureproof for carbon reducing technologies like electric vehicles

Continue Investments in Renewable Energy

Legislative Recommendation: *The LOC will work to identify barriers and potential solutions to local energy generation and will pursue funding assistance for feasibility studies and project implementation. The LOC will support legislation to study and invest in viable, preferably locally generated, options and to divest the Oregon Treasury from fossil fuels.*

Background: Renewable energy sources can be used to produce electricity with fewer environmental impacts. Local energy generation projects can better position cities to pursue and achieve local climate action goals, address capacity constraints of existing electric transmission lines, and can help cities respond to individual businesses that may be seeking green energy options. The types of local energy generation projects discussed by the committee include, but are not limited to, small-scale hydropower, in-conduit hydropower, methane capture, biomass and solar. Such projects are not intended to conflict

with existing low-carbon power purchase agreements but can position cities to pursue local climate action goals and supplement energy needs through renewable generation.

Investment in Community Climate Planning Resources

Legislative Recommendation: *The LOC will support investments that bring climate services (for mitigation and adaptation) together and work to fill the existing gaps to help communities get the high-quality climate assistance they need quickly and effectively.*

Background: Oregon communities are increasingly looking for help planning for climate change impacts and implementing programs to reduce greenhouse gases. Interest in climate services has continued as communities experience increasing disruptions caused or made worse by climate change. Oregon's small to mid-sized communities and rural communities are particularly in need of both technical assistance and additional capacity to address climate impacts and do their part to reduce greenhouse gas emissions. While some climate resources exist in Oregon, those programs are dispersed throughout state government, the nonprofit world, and academic institutions. Because of this current structure, it is not clear for communities what they should do once they decide to act on climate change.

Adequate Funding for State Climate Initiatives

Legislative Recommendation: *The LOC will support legislation to streamline processes and fully fund local implementation of climate mandates (like [Climate Friendly and Equity Communities](#) rules) from the state. Furthermore, the LOC will support legislation that allows the state to adequately maintain and staff programs that impact a city's ability to reduce greenhouse gas emissions.*

Background: On March 10, 2020, Governor Kate Brown signed [Executive Order 20-04](#) directing state agencies to take action to reduce and regulate greenhouse gas emissions. Additionally, the state has legislatively passed many greenhouse gas reduction measures. This has led to some unfunded mandates on cities as well as a significant workload for agency staff.

Brought to you by the Finance and Taxation Policy Committee

Property Tax Reform

Legislative Recommendation: *The LOC will advocate for constitutional and statutory reforms to the property tax system to enhance local choice, equity, fairness, and adequacy.*

Background: The property tax system is broken and in need of repair due to constitutional provisions in Measures 5 and 50 that were adopted by voters in the 1990s. The current system is inequitable to property owners and jurisdictions alike, is often inadequate to allow jurisdictions to provide critical services, removes meaningful local choice, and is incomprehensible to most taxpayers. Local governments and schools rely heavily on property tax revenues to pay for services and capital expenses. With federal pandemic aid to cities coming to an end and inflation looming, cities are concerned that their top revenue source will not allow residents to adequately fund the services that they demand. Therefore, the LOC will take a leadership role in pursuing efforts to draft and advocate for both comprehensive and incremental property tax reform option packages, including forming coalitions with other interested parties. The LOC will remain flexible to support all legislation that improves the system, but will, in the short term, focus on incremental changes that will allow for a foundation on which to build for broader revisions going forward. The LOC's overall focus will be on a property tax package that includes, but may not be limited to these elements:

- In the short term, advocating for a system that restores local choice and allows voters to adopt tax levies and establish tax rates outside of current limits and not subject to compression. This may also include advocating for a local option levy that has passed three or more times to become permanent (requires constitutional referral).
- Also in the short term, advocating for statutory changes to extend statewide a 2017 Multnomah County pilot that created an option that new property has a taxable value determined based on the city average of maximum assessed value to market value as opposed to countywide average.
- Over the longer term, to achieve equity, advocating for a system that has taxpayers' relative share tied to the value of their property, rather than the complex and increasingly arbitrary valuation system based on assessed value from Measure 50 (requires constitutional referral).
- Also over the longer term, to enhance fairness and adequacy, advocating for various statutory changes, some of which would adjust the impact of the above changes. For example, as a part of comprehensive reform the LOC will support targeted tax relief for lower income residents to make sure reform does not price vulnerable residents out of their homes.

Lodging Tax Flexibility

Legislative Recommendation: *The LOC will advocate for legislation to enhance flexibility in how cities may use transient lodging tax revenues. The goal is to help cities better serve visitors and improve local conditions that support the tourism industry.*

Background: The Legislature created the state lodging tax in 2003, and with it a new requirement that 70% of net revenues from new or increased local lodging taxes must be used for “tourism promotion” or “tourism related facilities.” Cities acknowledge and appreciate the economic development benefits that tourism brings to their local economies, but often struggle to support the industry in areas like public safety, infrastructure, workforce housing, and homeless services. Enhanced flexibility and clarification of allowed use of funds will benefit both visitors and business owners alike.

Economic Development Incentives (co-sponsor with the Community Development Committee)

Legislative Recommendation: *The LOC will support legislation to preserve and strengthen discretionary local economic development incentives including the Enterprise Zone (EZ), Long Term Rural Enterprise Zone (LTREZ) and Strategic Investment Program (SIP).*

Background: The EZ and LTREZ programs provide local governments the option to offer a temporary full exemption from property taxes for qualified new property of a business (3 to 5 years for the standard EZ and 7 to 15 years for the rural EZ). The SIP program allows local governments to offer a 15-year partial exemption on the value of new property that exceeds a certain investment threshold (\$25 million to \$100 million depending on location and total project value). Recent studies by Business Oregon confirmed what city economic development professionals know; these incentive programs are crucial for Oregon to remain competitive nationally and show massive benefits to Oregon in terms of jobs, enhanced economic activity, and tax revenues. The EZ and LTREZ programs will sunset in 2025 without action by the legislature, and “gain share” provisions of the SIP program transferring a portion of income taxes resulting from qualified projects to local governments will sunset in 2026. The LOC will advocate for sunset extensions and for changes that will improve the programs, and advocate against any changes that will reduce local control or devalue the incentives.

Marijuana Taxes

Legislative Recommendation: *The LOC will continue to advocate for increased revenues from marijuana taxes. This may include proposals to restore state marijuana tax losses related to Measure 110 (2020) distribution changes, and to increase the current 3% cap on local marijuana taxes so local voters may choose a rate that reflects the needs of their community.*

Background: Recreational marijuana retailers are required to charge a state-imposed retail sales tax of 17 percent for all recreational marijuana sold. Until the end of 2020 cities received 10% of the net revenue from the state tax but Measure 110 changed the distribution formula and will reduce city distributions by an estimated 73% for the 2021-23 biennium. Cities may also impose a local retail sales tax of up to 3%, subject to voter approval. Tax rates for recreational marijuana vary widely across the states, but the total Oregon tax burden is 20-25% percent below other West Coast states. Unbiased academic studies indicate Oregon could increase marijuana taxes without pushing significant business to the illicit market. If the Legislature is not willing to allow increased taxes it should restore city revenues by other means back to what was agreed to when recreation marijuana was legalized.

Alcohol Revenues

Legislative Recommendation: *The LOC will advocate for enhanced revenues from the sale of alcohol to mitigate the impact of recent legislative changes that will otherwise reduce this crucial revenue source.*

Background: Oregon's beer tax has not been increased since 1978 and is \$2.60 per barrel which equates to about 8.4 cents per gallon or less than 5 cents on a six-pack. Oregon has the lowest beer tax in the country, and to get to the middle of the states Oregon would need a more than 10-fold increase. Oregon's wine tax is 67 cents per gallon and 77 cents per gallon on dessert wines, this is the second lowest tax nationwide, and the first 2 cents of the tax goes to the wine board. Oregon is a control state and is the sole importer and distributor of liquor, which accounts for about 94% of total alcohol revenues. The Oregon Liquor and Cannabis Commission (OLCC) sets retail prices at about 105% of their cost and net revenues are distributed based on a formula. Cities are preempted from imposing alcohol taxes. In exchange, cities receive approximately 34% of the state alcohol revenues after the state takes 50% of beer and wine taxes off the top prior to this distribution. Recent legislative changes will reduce city revenues; the legislature approved a more generous compensation formula for liquor store owners in 2021 and approved a 148% cost increase for a planned OLCC warehouse in 2022. Both changes will reduce distributions to cities. Cities have significant public safety costs related to alcohol consumption and taxes on alcohol do not cover their fair share of these costs. There are numerous ways to address the issue: increasing taxes on beer or wine (possibly through a local sales tax option), increasing the markup on liquor, or increasing the per bottle surcharge currently in place at liquor stores and dedicating the funds to paying for the planned OLCC warehouse.

Brought to you by the Telecommunications, Broadband Policy Committee

Digital Equity and Inclusion

Legislative Recommendation: *The LOC will advocate for legislation and policies that help all individuals and communities have the information technology capacity needed for full participation in our society, democracy, and economy.*

Background: Connectivity is crucial to modern life. It is being relied on more for how people do business, learn, and receive important services like healthcare. As technology evolved the digital divide has become more complex and nuanced. Now, discussion of the digital divide is framed in terms of whether a population has access to hardware, to the Internet, to viable connection speeds and to the skills they need to effectively use it.

Resilient, Futureproof Broadband Infrastructure and Planning Investment

Legislative Recommendation: *The LOC will support legislation that will ensure broadband systems are built resiliently and futureproofed while also advocating for resources to help cities with broadband planning and technical assistance through direct grants and staff resources at the state level. The LOC will support legislation that addresses issues with the inconsistency of regulations applied to traditional and nontraditional telecommunications service as more entities move to a network based approach instead of what services are being provided. LOC will oppose any preemptions on local rights-of-ways, and municipalities right to own poles and become broadband service providers.*

Background:

Broadband Planning and Technical Assistance

Most state and federal broadband infrastructure funding sources require that communities have a broadband strategic plan in place to qualify for funds. Unfortunately, many cities do not have the resources or staff capacity to complete comprehensive broadband strategic plans.

Resilient and Long-Term Systems

As broadband is continually being made a priority on the state and federal level, we must think strategically about how to build resilient long-term networks that will serve Oregonians now and into the future. Ways to ensure broadband is resilient may include investing in robust middle mile connections, ensuring redundancy and multiple providers in all areas, and undergrounding fiber instead of hanging it on poles.

Optional Local Incentives to Increase Broadband Deployment

All levels of government have identified broadband as a priority. However, there continue to be proposed mandates on local governments to deploy broadband services more quickly. Cities have a duty to manage rights-of-ways (ROW) on behalf of the public and need flexibility to adequately manage the ROW. Instead of mandates the state should focus its efforts on allowing cities the option to adopt incentives that could help streamline broadband deployment.

Regulatory Consistency Amidst Convergence

Historically, the standards and oversight policies for a specific technology were established independently and were not developed with merging or interoperability in mind. For example, telephony (when providing voice), cable TV (when providing video), and mobile cellular technologies each follow their respective standards, and these services were regulated by policies specific to each type.

Incentives for Broadband Affordability, Adoption and Consumer Protections

Legislative Recommendation: *The LOC will seek additional state support and funding for increased broadband adoption and affordability and will advocate for consumer protections for those accessing the internet, internet enabled devices and broadband service.*

Background: Broadband infrastructure is being funded at a historic level. For that infrastructure to be adequately utilized affordability and adoption initiatives must receive investment. Initiatives that would help could include studying barriers to adoptions and affordability; ensuring adequate competition in providers; investing in more data centers statewide so service is cheaper for regions outside of the I-5 corridor as it is simply more expensive per megabit to provide; and ensuring providers are widely advertising programs meant for those with limited means.

Additionally, problems with internet providers are among the most common consumer complaints in Oregon. Complaints often involve paying more than expected, difficult cancellation policies and poor service. Consumers are at risk of being advertised or offered services that are not actually being delivered. For example, 25/3 is the current definition of broadband. Currently, providers are allowed to advertise

speeds as “up to” 25/3 or a certain speed. There is no one enforcing whether or not providers actually hit their advertised speeds. Providers should be accountable for making sure consumers have the appropriate equipment for the services they are paying for.

Cybersecurity & Privacy

Legislative Recommendation: *The LOC will support legislation that addresses privacy and cybersecurity for all that use technology, including but not limited to: funding for local government cybersecurity initiatives, statewide resources for cyber professionals, regulations of data privacy, or standards for software/hardware developers to meet to make their products more secure.*

Background: Society is becoming more technologically reliant than ever before and that will only increase. With this increase of technology there is an increased risk for cybercrimes. Therefore, cybersecurity and privacy systems must be taken seriously. Cybersecurity encompasses everything that pertains to protecting sensitive data, protected health information, personal information, intellectual property, data, and governmental and industry information systems from theft and damage attempted by criminals and adversaries.

Cybersecurity risk is increasing, not only because of global connectivity but also because of the reliance on cloud services to store sensitive data and personal information. Widespread poor configuration of cloud services paired with increasingly sophisticated cyber criminals means the risk that governments, businesses, organizations, and consumers suffer from a successful cyberattack or data breach is on the rise.

Brought to you by the Transportation Policy Committee

Transportation Safety Enhancement

Legislative Recommendation: *The LOC supports legislation that improves the overall safety of the transportation network in communities. The LOC will achieve this outcome by expanding authority for establishing fixed photo radar to all cities, increasing flexibility for local speed setting authority, and increased investment in the “safe routes to schools” and expansion of the “great streets” programs.*

Background: The City of Portland has demonstrated improved safety outcomes in neighborhoods with the addition of fixed photo radar along high-crash corridors. LOC’s efforts to expand the use of fixed photo radar to additional cities failed during the 2021 Session. ([HB 2019](#)) - High Crash Corridor for City of Unity) and ([HB 2530](#)) -Extending Fixed Photo Radar) were supported by the LOC, but lacked sufficient support from legislators to advance.

During the 2019 Session the LOC supported [SB 558](#), which would authorize a city to designate speed for a highway under the city’s jurisdiction that is five miles per hour lower than statutory speed when the highway is in a residential district and not an arterial highway. During the 2021 Session passage of [HB 3055](#) (Sect 81 (5)(g)) extended speed setting authority to highways within the jurisdictional boundaries of cities and Multnomah & Clackamas counties.

Road User Fee – Vehicle Miles Traveled (VMT) Structure

Legislative Recommendation: *The LOC will support replacement of Oregon’s Gas Tax with a road impact fee structure that will capture added revenue from cities with local gas tax structure. The pricing structure should also maintain a weight-mile tax structure to make sure that there is an impact element of the fees paid for transportation infrastructure.*

Background: The LOC has historically advocated for a fee structure that more closely matches road usage. Gas tax revenues are a declining source of revenue due to enhanced mileage in new vehicles and the increase of electric vehicles on roads.

New Mobility Services

Legislative Recommendation: *The LOC supports the entry and utilization of a variety of new mobility services that support a safe, sustainable, and equitable multimodal transportation system, while preserving local government's authority to regulate services and ensure public and consumer safety in communities.*

Background: The expansion of mobility services presents local governments with opportunities and challenges. Mobility services include Uber, Lyft, scooters, E-bikes, and food service delivery such as DoorDash, and UberEATS. Many cities across the country have initiated efforts to add regulatory oversight of these services to provide a base level of safety to consumers. Companies such as Uber and Lyft have tried to de-regulate their business model in states specifically introducing legislation that would pre-empt local governments to regulate and establish steps that protect their respective communities. The LOC has supported efforts during the 2019 session such as [HB 3379](#) and opposed efforts that pre-empted local governments such as HB 3023.

Funding for Recovery of Abandoned Recreational Vehicles

Legislative Recommendation: *The LOC supports the formation of a recovery fund that cities could access for disposing of abandoned Recreational Vehicles (RV).*

Background: With the ongoing houseless and affordable housing crisis cities have experienced an increase in dumping of vehicles and RVs in neighborhoods, streets and the right-of-way. The costs associated with towing, recovery, and determining ownership has presented significant costs in some communities. Several cities are allocating hundreds of thousands of dollars to recover abandoned vehicles from streets, parks, private property, and other locations. Tow companies have expressed an interest in a recovery fund as well, since the companies must deal with storage and disposal of the vehicles, which presents several challenges.

Brought to you by the Water and Wastewater Policy Committee

Water Utility Rate and Fund Assistance

Legislative Recommendation: *The LOC will collaborate with members of the bipartisan work group to continue the proposed legislative purpose of the Low-Income Household Water Assistance (LIHWA) program.*

Background: The LOC was successful during the 2021 legislative session in advocating for the development of a new water utility funding assistance program for ratepayers experiencing ongoing or recent economic hardships. The LOC worked with a bipartisan work group to pass legislation that formed the Low-Income Household Water Assistance (LIHWA) program which received federal funding for the

initial implementation through the Consolidated Appropriations Act of 2021 and the American Rescue Plan Act (ARPA) of 2021. The program was incredibly successful, but the federal funding that was allocated to the State of Oregon was already exhausted in some counties in the Spring of 2022.

The bipartisan workgroup's intent was to make this program a permanent program, with initial pilot funding provided by the federal government.

Place-Based, Water Resource Planning (Program Support)

Legislative Recommendation: *The LOC will advocate for the funding needed to complete existing place-based planning efforts across the state and identify funding to continue the program for communities that require this support.*

Background: Oregon's water supply management issues have become exceedingly complex. Lack of adequate water supply and storage capacity to meet existing and future needs is an ongoing concern for many cities in Oregon and is a shared concern for other types of water users including agricultural, environmental, and industrial. The Legislature created a place-based planning pilot program in Oregon administered through the Oregon Water Resources Department that provides a framework and funding for local stakeholders to collaborate and develop solutions to address water needs within a watershed, basin, or groundwater area. The LOC Water & Wastewater Policy Committee recognized that while this funding is limited to specific geographic areas, they also recognized the importance of successfully completing these pilot efforts and conducting a detailed cost/benefit analysis. It is a critical step to demonstrate the benefits of this type of planning. If these local planning efforts prove to be successful, there will likely be future efforts to secure additional funding for other place-based planning projects across the state in 2022.

Infrastructure Financing and Resilience

Legislative Recommendation: *The LOC will advocate for an increase in the state's investment in key infrastructure funding sources, including, but not limited to, the Special Public Works Fund (SPWF), Brownfield Redevelopment Fund, Regionally Significant Industrial Site loan program, and set asides through the SPWF for seismic resilience planning and related infrastructure improvements to make Oregon water and wastewater systems more resilient.*

Background: A key issue that most cities are facing is how to fund infrastructure improvements (both to maintain current and to build new). Increasing state resources in programs that provide access to lower rate loans and grants will assist cities in investing in vital infrastructure. An LOC survey of cities in 2016 identified a need of \$7.6 billion dollars over the next 20 years to cover water and wastewater infrastructure projects for the 120 cities who responded. This shows a significant reinvestment in the Special Public Works Fund (SPWF) is needed to help meet the needs of local governments.

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 27, 2022	Funding request of up to \$38,500 for street line painting
Council Goal:	Agenda Type:	
Maintain and improve public infrastructure and facilities	Decision Items	
Prepared by:	Reviewed by:	Approved by:
Public Works Director B. Zusan	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve funding of up to \$38,500 for street line painting throughout the City.

Background:

This is an updated Request for Council Action from May 4, 2022 where Council approved a bid of \$ 33,500 for the same project. Staff is seeking an additional \$5,000 for the updated bid price. In the past the City contracted with Linn County to provide service for painting street lines, however, this year they will not commit to any outside work. Staff made contact with five vendors in an attempt to ensure equal opportunity. The only bid received back was from Hick's striping in the amount of \$33,500. Attempts were made to contact Allen's lot maintenance, Linn County street dept. Portland Seal Cote and Hicks Striping.

Fiscal Impact:	Fiscal Year:	GL Number:
\$38,500	2022-2023	011-110-600420

Attachment:

1. Updated bid

HICKS

AN INFRASTRIPE COMPANY

Striping & Curbing, Inc.

P.O. Box 9127

Brooks, OR 97305

Date: 7/19/2022

ESTIMATE

CCB# 240403

TEL 503.364.4577

FAX 503.364.4596

robert@hicksstriping.com

#22049.01

To: City of Toledo

City of Toledo Street Striping
Toledo, OR

Att: Bill Zuspan

Phone: 541-336-2247 x2070

email: pwdirector@cityoftoledo.org

By: Robert Fredrickson

ITEM	QUANTITY	DESCRIPTION	UNIT	UNIT PRICE	TOTAL
	90,000.00	Painted Centerline - Hi Build Paint	FT	\$ 0.28	\$ 25,200.00
	70,000.00	Painted Fog Line - Hi Build Paint	FT	\$ 0.19	\$ 13,300.00
Excludes fog seal, alignment layout, and traffic control.					
Quote is valid for 30 Days					
TOTAL					\$ 38,500.00

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 27, 2022	Authorize an expenditure of approximately \$93,000 for infrastructure improvements
Council Goal:	Agenda Type:	
Maintain and improve public infrastructure and facilities	Decision Items	
Prepared by:	Reviewed by:	Approved by:
Public Works Director B. Zuspan	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to authorize an expenditure of \$93,000 for Manhole liners and delegate the City Manager to sign the contract.

Background:

This is an ongoing process to reduce Inflow & Infiltration to the Wastewater Treatment Plant (WWTP) by placing spray-in liners inside manholes to greatly reduce seepage from reaching the WWTP. This process also adds 20-30 years of life to the structure and is a Department of Environmental Quality reportable improvement to our wastewater system. Only one contractor responded to requests

Fiscal Impact:	Fiscal Year:	GL Number:
\$93.000	2022-2023	042-420-620550

Attachment:

1. Bid quote form

MANHOLE LINERS BY basin- #	LOCATION	
B10	BASIN B-	
B16	BASIN B-	
B24	BASIN B-	
B27	BASIN B-	
C1	BASIN C	
C2	BASIN C	
D12	BASIN D	
D4	BASIN D	
D9	BASIN D	
F15	BASIN-F	
G33	BASIN G	
I-4	BASIN I	
L10	BASIN L	
L14	BASIN L	lined already
L15	BASIN L	lined already
L8	BASIN L	
O12	BASIN O	
O5	BASIN O	
B22	BASIN B-	
I-78	BASIN I	
I-81	BASIN I	
F20	BASIN F	
F18	BASIN F	
I-29	BASIN I	
I-28	BASIN I	
I-27	BASIN I	
B1	BASIN B-	
B9	BASIN B-	lined already
B20	BASIN B-	lined already
B18	BASIN B-	
B22	BASIN B-	duplicate



UNDERGROUND TECH
REPAIR - RENOVATE - RESOLVE

Manhole Rehab Quote **City of Toledo**

July 18, 2022

Thank you for contacting Underground Tech for your manhole rehabilitation needs. Based on the information we now possess, including both verbal and written, we are pleased to submit our proposal for providing materials and services for the above referenced project.

Scope of Service

To meet the requirements of this project, we propose to furnish the following items:

1. Mobilize and demobilize crew, equipment, and materials to the project location.
2. Clean and prepare structures, seal any active leaks.
3. Repair manhole base and channel as needed.
4. Line each manhole with **Mainstay Composite Liner**.
5. Install chimney seals.

The above scope of service and the following pricing is subject to adjustment if the actual job site conditions and quantities differ from the requirements and conditions known to us at time of this proposal.



UNDERGROUND TECH

REPAIR - RENOVATE - RESOLVE

Proposal

Underground Tech proposes to offer these services for the following cost(s):

Item No:	Description	Qty.	U/M	Each	Amount
1	Line Manholes	26	EA	\$3,540.00	\$92,040.00
Total:					\$92,040.00

We will expect that the following will be furnished to Underground Tech at no cost to us:

- 1. Free and legal access to the project site.**
- 2. All approvals and permits as applicable.**
- 3. Traffic control other than cones.**
- 4. Overnight parking for equipment**
- 5. Washout area for mortar equipment and access to water.**



UNDERGROUND TECH

REPAIR - RENOVATE - RESOLVE

Terms and Conditions

- Quote is valid for 30 days.
- Customer shall provide a suitable roadway for access of our service vehicles.
- All permits, inspection, licensure and environmental shall be provided by others.
- Underground Tech is unaffiliated, any union and trade agreements shall be by others.
- Contracts must be signed and in place prior to any commencement of work by Underground Tech.
- Manholes lined with * **Mainstay Composite Liner** system are covered by a 10 year warranty should failure occur. "Failure" does not include damage resulting from mechanical or chemical abuse or act of God.
- Prices are based on non-prevailing wages.
- Delays on-site shall be billed per appropriate hourly rates. Any overtime will be billed at 1.5 times the hourly rate.
- If agreement is terminated after Underground Tech has mobilized or materials ordered, you will be invoiced for any out-of-pocket costs incurred.
- Upon completion, payment is due on the 20th of the following month, no retainage, 1-1/2% interest per month will be assessed on past due invoices.



UNDERGROUND TECH

REPAIR - RENOVATE - RESOLVE

Closing

We thank you for the opportunity to offer this proposal and look forward to providing this service. If you have any need for further assistance, please do not hesitate to contact me at 541-990-2791.

Sincerely,

Doug Troyer, Owner
Underground Tech

ACCEPTANCE OF QUOTE

SIGNATURE _____

PRINTED NAME & TITLE _____

DATE _____

PLEASE SIGN AND EMAIL TO doug@undergroundtech.net FOR ACCEPTANCE OF THIS QUOTE

Madewell® 806™ Trowelable Flexible Joint & Manhole Chimney Seal



FEATURES/BENEFITS

PERMANENT FLEXIBILITY	100% SOLIDS
IMPACT RESISTANT	HIGH BUILD
EXCELLENT ADHESION	ABRASION RESISTANT

PRODUCT DESCRIPTION

MADEWELL 806 is a 100% solids, chemically modified epoxy/urethane hybrid that is specifically designed for use in expansion joints in concrete slabs, bridges, garages, balconies, and decks. Its unique multi-component resin system contributes to a number of superior properties, including toughness, excellent adhesion, and permanent flexibility. This trowelable product can be applied at thicknesses up to 1/2" on a vertical surface, thereby reducing application costs. The absence of solvent reduces shrinkage, cracking, and disbonding and eliminates the problems related to solvent entrapment.

PRODUCT DATA

COMPOSITION:

100% solids, modified flexible epoxy/urethane joint sealant.

COLOR:

Gray. One component is black, and the other is white to produce a gray finished color, which is also an indicator of proper mixing.

THICKNESS:

May be applied as an underlayment beneath Madewell laminate systems or installed as a trowelable joint filler up to several inches wide. Consult a Madewell Technical Representative for specific recommendations.

SEALING MANHOLE FRAMES:

To seal the interior circumference of a 2' diameter manhole frame/chimney, **MADWELL 806** is typically applied at a thickness of 250 mils thick by 8" wide. When applied in this way, one two-gallon kit will normally treat three manhole frames.

PACKAGING:

Normally stocked in two-gallon, two-component kits.

SURFACE PREPARATION:

Steel: Apply only to clean, sound surfaces. All metal surfaces should be de-

greased and decontaminated prior to abrasive blast cleaning. For immersion service, surfaces should be abrasive blast cleaned to a white metal (NACE No. 1 or SSPC SP 5) condition with a dense 2 to 4 mil anchor profile depth.

Concrete: Do not apply this product directly to concrete. At a minimum, concrete surfaces should be primed with **MADWELL 927** Penetrating Epoxy Primer. Deteriorated concrete may be restored using **MAINSTAY ML-72** or **ML-72F** Sprayable Microsilica Restoration Mortar followed by **MADWELL 927** Primer. Consult a Madewell Technical Representative for specific recommendations or see appropriate product data sheets for additional information.

EXTREMELY ROUGH SUBSTRATES & DEEP VOIDS:

Extremely rough or deteriorated concrete could be more economically smoothed and/or repaired using **MAINSTAY ML-72** or **MAINSTAY ML-72F** – see applicable product data sheets or contact a Madewell Technical Representative for more information.

SMOOTHING MINOR SURFACE

IRREGULARITIES:

Use **MADWELL 1312P** Sprayable Epoxy Putty to smooth minor surface irregularities (less than 1/8" deep).

PRIMING:

Not required for steel surfaces. Concrete surfaces should be primed with **MADWELL 927** Primer. See Product Data Sheet for surface preparation and application instructions. Apply **MADWELL 806** to primed surfaces when the **MADWELL 927** Primer has cured dry to the touch (but as soon as possible thereafter to avoid contamination of the primed surfaces).

MIXING RATIO:

Mix components at a volume ratio of 1 part A to 1 part B. Whenever possible, avoid mixing partial kits.

MIXING:

This is a two component system. All components (liquids A and B) should be between 70° Fahrenheit (F) and 90° F prior to mixing. The entire contents of each component should be thoroughly mixed individually before combining separate components together. If it is not possible to mix an entire kit, pour carefully measured quantities of

both components into a clean container and blend thoroughly using a power agitator, such as a Jiffy® mixer, and a high strength industrial drill for 5 minutes. Do not mix more material than can be used within stated working times.

WORKING TIME:

Approximately 20 minutes at 80° Fahrenheit (F). Working time will be extended at lower temperatures and shortened when higher.

THINNING:

Thinning is not recommended.

APPLICATION:

Both components must be warmed to a minimum temperature of 70° F prior to application. The minimum application temperature is 50° F. Contact a Madewell Technical Representative for specific equipment recommendations and sources.

CURE TIME:

16 hours at 70° F.

CLEAN UP:

Use xylene or methyl ethyl ketone (MEK) to clean application equipment. Skin should be cleaned using warm, soapy water or commercial hand cleaner.

PHYSICAL CHARACTERISTICS/TEST DATA:

Elongation at break: 67% at 70° F (ASTM D-412)

Tensile strength: 1,400 pounds per square inch (psi)

(ASTM D-412)

Abrasion resistance: 25.4 milligram (mg) loss with a 1000 gram total load at 1,000 revolutions with a CS100 wheel (Tabor Abrasor Method).

Shore A hardness: 65

Shore D Hardness: 25

Flexural Strength: 1,600 psi (ASTM D-790)

DELIVERY & STORAGE:

Check containers for damage, and verify quantities before accepting shipments. Store components in sealed containers in a dry environment at moderate temperature conditions (40° F to 80° F).

SHELF LIFE:

1 year, depending on storage conditions, subject to re-inspection thereafter.

SAFETY:

KEEP OUT OF REACH OF CHILDREN.

FOR INDUSTRIAL USE ONLY.

MAINSTAY 806 contains epoxy resins that **MAY CAUSE EYE, SKIN, RESPIRATORY, OR NERVOUS SYSTEM SENSITIZATION**. Adequate health and safety precautions should be observed during all storage, handling, use, and drying periods. For best results and safest usage, user is specifi-

cally directed to consult the current "Material Safety Data Sheet" for this product. When using this product in a confined space or closed area, consult the current the OSHA or American National Standards Institute (ANSI) bulletins on safety requirements. Do not take internally. If swallowed, call a physician immediately. Keep away from open flame, and keep containers tightly closed when not in use.

WARRANTY:

All technical data, recommendations, and services are rendered by the Seller gratis. They are based on technical data that the Seller believes to be reliable and are intended for use by persons having skill and knowledge at their discretion and risk. Seller assumes no responsibility for results obtained or damages incurred from their use by the Buyer whether as recommended herein or otherwise. Such recommendations, technical advice, or services are not to be taken as a license to operate or intended to suggest infringement of any existing patent. MADEWELL PRODUCTS CORPORATION MAKES NO GUARANTEE OR WARRANTIES EXCEPT AS OTHERWISE PROVIDED IN WRITING AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

® Jiffy is a registered trademark of the Jiffy Mixer Company.

Mainstay® DS-5™

100% Solids High Build Epoxy Coating



FEATURES/BENEFITS

PERMANENT FLEXIBILITY	SUPERIOR CHEMICAL RESISTANCE
ABRASION RESISTANT	HIGH MOISTURE CURE
GOOD VISIBILITY IN LOW LIGHT	SUPERIOR TOUGHNESS

PRODUCT DESCRIPTION

MAINSTAY DS-5 High Build Epoxy Coating utilizes a unique, multi-component curing system that contributes to a number of superior properties: toughness, permanent flexibility, and improved chemical and temperature resistance. This system may be applied at thicknesses up to 125 mils in single or multiple applications, thereby reducing application costs. The absence of solvent reduces shrinkage, cracking, and disbonding and eliminates problems related to solvent entrapment. **MAINSTAY DS-5** is designed for use where corrosion is anticipated or known to be moderately aggressive (pH >1.0, H₂S < 100 ppm) and is particularly well suited for use as a topcoat over **MAINSTAY ML-72™** Sprayable Microsilica Restoration Mortar (see section on Application).

PRODUCT DATA

COMPOSITION:

100% solids, modified epoxy coating.

FINISH:

Gloss.

COLORS:

Standard: white and light gray/blue; custom colors available.

THICKNESS:

50 to 125 mils in one or two coats, depending on the application. Consult a Mainstay Technical Representative for specific recommendations.

COVERAGE:

Approximately 16 square feet (ft²) per gallon at 100 mils; 72 ft² per kit at 100 mils. Allowances should be made for waste.

PACKAGING:

Normally stocked in 4.5-gallon, two-component kits; special packaging available.

SURFACE PREPARATION:

Steel: Apply only to clean, sound surfaces. All metal surfaces should be degreased and decontaminated prior to abrasive blast cleaning. For immersion service, surfaces should be abrasive blast cleaned to a white metal (NACE

No. 1 or SSPC SP 5) condition with a dense 2 to 4 mil anchor profile depth.

Concrete: Do not apply this product directly to concrete. At a minimum, concrete surfaces should be primed with **MADEWELL 927** Penetrating Epoxy Primer. Deteriorated concrete may be restored using **MAINSTAY ML-72** or **ML-72F** Sprayable Microsilica Restoration Mortar followed by **MADEWELL 927** Primer. Consult a Madewell Technical Representative for specific recommendations or see appropriate product data sheets for additional information.

EXTREMELY ROUGH SUBSTRATES & DEEP VOIDS:

Extremely rough or deteriorated concrete could be more economically smoothed and/or repaired using **MAINSTAY ML-72** or **MAINSTAY ML-72F** Mortar – see applicable product data sheets or contact a Madewell Technical Representative for more information.

SMOOTHING MINOR SURFACE IRREGULARITIES:

Use **MADEWELL 1312P** Sprayable Epoxy Putty to smooth minor surface irregularities (less than 1/8" deep).

PRIMING:

Not required for steel surfaces. Concrete surfaces should be primed with **MADEWELL 927** Primer. See Product Data Sheet for surface preparation and application instructions. Apply **MAINSTAY DS-5** to primed surfaces when the **MADEWELL 927** Primer has cured dry to the touch (but as soon as possible thereafter to avoid contamination of the primed surfaces).

MIXING RATIO:

Mix components at a volume ratio of 2 parts A to 1 part B. Whenever possible, avoid mixing partial kits.

MIXING:

This is a two component system. All components (liquids A and B) should be between 70° Fahrenheit (F) and 90° F prior to mixing. The entire contents of each component should be thoroughly mixed individually before combining separate components together. If it is not possible to mix an entire kit, pour carefully measured quantities of both components into a clean container and blend thoroughly using a power agitator, such as a Jiffy® mixer, and a high strength industrial drill for 3 minutes. Do not mix more material than

can be used within stated working times.

WORKING TIME:

Approximately 45 minutes at 80° F. The working time will be extended at lower temperatures and shortened when higher.

THINNING:

Thinning is not recommended.

APPLICATION:

This product is to be applied by trained workmen using specialized equipment. Both components must be preheated between 70° F and 90° F prior to application. A minimum 56:1 airless spray pump with an air input pressure of ~90 pounds per square inch (psi) is used to feed material through up to 50' of 3/8" diameter hose to a standard airless spray gun with a 0.031" to 0.035" reversible tip. It is recommended that 30 mesh in line strainers/filters be used. Other equipment, such as whip hoses, heaters, or plural component equipment may be employed. **MAINSTAY DS-5** can also be applied by brush or roller. Contact a Mainstay Technical Representative for specific application equipment recommendations.

MAINSTAY DS-5 can be applied to **MAINSTAY ML-72** or **ML-72F** within one to two hours after the **MAINSTAY ML-72** has been placed and finished (when the **MAINSTAY ML-72** or **ML-72F** has just become firm to the touch). The unique and essentially simultaneous application of these two products is the basis for the Mainstay Composite Liner™. The application of these two products by this

technique should be performed by a contractor that has been licensed by Madewell Products Corporation to perform this type of work. Contact a Mainstay Technical Representative for additional information regarding specific application instructions, applicator training, and contractor licensing.

CURE TIME:

Foot Traffic: 24 hours at 70° F.

Immersion Service: 24 hours to 3 days, depending on temperature.

CLEAN UP:

Use xylene or methyl ethyl ketone (MEK) to clean application equipment. Skin should be cleaned using warm, soapy water or commercial hand cleaner.

DELIVERY & STORAGE:

Check containers for damage, and verify quantities before accepting shipments. Store components in sealed containers in a dry environment at moderate temperature conditions (40° F to 80° F).

SHELF LIFE:

1 year, depending on storage conditions, subject to re-inspection thereafter.

SAFETY:

KEEP OUT OF REACH OF CHILDREN.

FOR INDUSTRIAL USE ONLY.

MAINSTAY DS-5 contains epoxy resins that **MAY CAUSE EYE, SKIN, RESPIRATORY, OR NERVOUS SYSTEM SENSITIZATION**. Adequate

health and safety precautions should be observed during all storage, handling, use, and drying periods. For best results and safest usage, user is specifically directed to consult the current "Material Safety Data Sheet" for this product. When using this product in a confined space or closed area, consult the current the OSHA or American National Standards Institute (ANSI) bulletins on safety requirements. Do not take internally. If swallowed, call a physician immediately. Keep away from open flame, and keep containers tightly closed when not in use.

WARRANTY:

All technical data, recommendations, and services are rendered by the Seller gratis. They are based on technical data that the Seller believes to be reliable and are intended for use by persons having skill and knowledge at their discretion and risk. Seller assumes no responsibility for results obtained or damages incurred from their use by the Buyer whether as recommended herein or otherwise. Such recommendations, technical advice, or services are not to be taken as a license to operate or intended to suggest infringement of any existing patent. **MADEWELL PRODUCTS CORPORATION MAKES NO GUARANTEE OR WARRANTIES EXCEPT AS OTHERWISE PROVIDED IN WRITING AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

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Mainstay® ML-10™

Hydraulic Cement Mortar



FEATURES/BENEFITS

FAST SETTING	EASY TO FINISH
VERY LOW SHRINKAGE	MAY BE USED UNDERWATER
EASY TO USE	WATERPROOFS/DAMP-PROOFS

PRODUCT DESCRIPTION

MAINSTAY ML-10 is a fast setting blend of special cements and fillers that is used to stop leaks through cracks and holes in underground concrete and brick structures. **MAINSTAY ML-10** produces excellent adhesion to properly prepared existing concrete or brick surfaces and is suitable for permanent water immersion service. **MAINSTAY ML-10** can be used to repair leaks in floors and vertical and overhead surfaces of deteriorated concrete structures such as sewers, pits, sumps, trenches, tunnels, piers, or any concrete structure that is experiencing flowing, seeping, or weeping leaks.

PRODUCT DATA

COMPOSITION:

A proprietary mixture of special hydraulic cements and fillers.

COLOR:

Dark gray.

YIELD:

0.42 cubic feet (ft³) per 50-pound (lb) pail when mixed correctly.

PACKAGING:

Normally stocked in 50-lb pails.

SURFACE PREPARATION:

Prepare surfaces to be repaired by water blasting, abrasive blasting, hand, or power tool cleaning to remove all unsound concrete, contaminants, dirt, debris, and/or deteriorated reinforcing steel. Refer to the International Concrete Repair Institute (ICRI) technical guideline titled **Surface Preparation Guidelines For The Repair Of Deteriorated Concrete Resulting From Reinforcing Steel Oxidation** and/or contact a Mainstay Technical Representative for information on removal techniques that are best for your application. Surfaces should have a minimum ICRI Concrete Surface Profile (CSP) #5 (preferably with aggregate exposed) and should be inspected for soundness prior to the application of **MAINSTAY ML-10**. Saturate all surfaces thor-

oughly with clean water prior to the application of **MAINSTAY ML-10**.

MIXING:

Due to the fast setting characteristics of this product, it must be mixed in small quantities of one to two pounds at a time. **MAINSTAY ML-10** should be mixed with just enough clean water to form a viscous lump with the consistency of modeling clay.

WORKING TIME:

Approximately 45 to 90 seconds at 77° Fahrenheit (F). The working time will be extended at lower temperatures and shortened when higher.

APPLICATION:

MAINSTAY ML-10 can be applied by hand in small quantities or with a trowel. Press the mixed material firmly into place starting at the top of the leak, and work your way down. Numerous small applications are typically required to completely seal large leaks. Consult a Mainstay Technical Representative for information regarding equipment and techniques that are best suited for your job.

FINISHING:

MAINSTAY ML-10 can be finished using a steel trowel, wood float, sponge float, broom, or brush, depend-

ing on the surface texture desired. If **MAINSTAY ML-10** is to be covered with **MAINSTAY ML-72** Sprayable Microsilica Restoration Mortar, it is recommended that the surface be given a very rough finish using a broom or stiff bristled brush. Be sure to remove any loose dust or particles of hardened material that may not be securely bonded prior to topcoating this product with **MAINSTAY ML-72**. **MAINSTAY ML-10** should not be directly topcoated with any Madewell or Mainstay polymer coating.

CURING:

MAINSTAY ML-10 should be kept moist with clean water for the first 72 hours after placement.

CLEAN UP:

Clean equipment and tools with clean tap water.

STORAGE:

Check containers for damage, and verify quantities before accepting shipments. Store **MAINSTAY ML-10** in a cool, dry place.

SHELF LIFE:

1 year, depending on storage conditions, subject to re-inspection thereafter.

Mainstay® ML-10 Hydraulic Cement Mortar**SAFETY:**

KEEP OUT OF REACH OF CHILDREN.

FOR INDUSTRIAL USE ONLY.

MAINSTAY ML-10 contains portland cement and chemicals that **MAY CAUSE EYE, SKIN, RESPIRATORY, OR NERVOUS SYSTEM SENSITIZATION**. Adequate health and safety precautions should be observed during all storage, handling, use, and drying periods. For best results and safest usage, user is specifically directed to consult the current "Material Safety Data Sheet" for this product. When using

this product in a confined space or closed area, consult the current the OSHA or American National Standards Institute (ANSI) bulletins on safety requirements. Do not take internally. If swallowed, call a physician immediately. Keep away from open flame, and keep containers tightly closed when not in use.

WARRANTY

All technical data, recommendations, and services are rendered by the Seller gratis. They are based on technical data that the Seller believes to be reliable and are intended for use by persons having skill and knowledge at their dis-

cretion and risk. Seller assumes no responsibility for results obtained or damages incurred from their use by the Buyer whether as recommended herein or otherwise. Such recommendations, technical advice, or services are not to be taken as a license to operate or intended to suggest infringement of any existing patent. MADEWELL PRODUCTS CORPORATION MAKES NO GUARANTEE OR WARRANTIES EXCEPT AS OTHERWISE PROVIDED IN WRITING AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Compressive Strength ASTM C-109	24 hours	3,500 psi
	7 days	4,900 psi
	28 days	5,500 psi
Tensile Strength ASTM C-190	7 days	290 psi
	28 days	575 psi
Shrinkage ASTM C-490	28 days @ 90% Rh	0.04%

Mainstay® ML-72™

Sprayable Microsilica Restoration Mortar



FEATURES/BENEFITS

LOW PERMEABILITY	NON SHRINK/CRACK RESISTANT
HIGH EARLY AND ULTIMATE STRENGTH	HIGH FLEXURAL AND BOND STRENGTH
EASY TO USE AND FINISH	HIGH BUILD
WATERPROOFS/DAMP-PROOFS	RESTORES DETERIORATED SURFACES

PRODUCT DESCRIPTION

MAINSTAY ML-72 is a special blend of portland cement, microsilica, thermoplastic fiber, densifiers, admixtures, and other modifiers that produces a high strength and low permeability mortar for the rehabilitation of deteriorated concrete structures. **MAINSTAY ML-72** produces excellent adhesion to properly prepared existing concrete or brick surfaces. **MAINSTAY ML-72** can withstand corrosive environments with a pH of 3 or higher, restores structural integrity, seals rough, deteriorated surfaces, and resists external hydrostatic water pressure. **MAINSTAY ML-72** is suitable for permanent water immersion service.

MAINSTAY ML-72 can be used to repair floors and vertical and overhead surfaces of deteriorated concrete structures such as sewer pipes, pits, sumps, trenches, tunnels, bridges, piers, or any concrete structure that has experienced deterioration from exposure to aggressive environments. This product is available with polymer additives, **MAINSTAY ML-72F**. These polymer additives improve adhesion, tensile strength, and workability, especially in dry environments.

PRODUCT DATA

COMPOSITION:

A proprietary mixture of special cements, silica fume, thermoplastic fibers, and modifiers. (**MAINSTAY ML-72F** contains polymer admixture.)

COLOR:

Dark gray.

YIELD:

.54 cubic feet (ft³) per 65 pound (lb) bag when mixed correctly.

COVERAGE:

Approximately 13 square feet (ft²) per bag at 1/2". Allowances should be made for waste.

THICKNESS:

Depends on the application. 1" is generally sufficient for smoothing concrete that has experienced surface attack (exposed aggregate). Minimum thickness is usually 1/2". Consult a Mainstay Technical Representative for specific recommendations.

PACKAGING:

Normally stocked in 65-lb bags.

SURFACE PREPARATION:

Prepare surfaces to be repaired by Low Pressure Water Cleaning (LP WC, 4,000 psi minimum), abrasive blasting, hand, or power tool cleaning to remove all unsound concrete, contaminants, dirt, debris, and/or deteriorated reinforcing steel. Refer to the International Concrete Repair Institute (ICRI) technical guideline titled **Surface Preparation Guidelines For The Repair Of Deteriorated Concrete Resulting From Reinforcing Steel Oxidation** and/or contact a Mainstay Technical Representative for information on removal techniques that are best for your application. Surfaces should have a minimum ICRI Concrete Surface Profile (CSP) #5 (preferably with aggregate exposed) and should be inspected for soundness prior to the application of **MAINSTAY ML-72**. Saturate all surfaces thoroughly with clean water and allow to surface dry just prior to the application of **MAINSTAY ML-72**.

MIXING:

Add 1.2 gallons of clean water per 65 lb bag. Mix thoroughly using a gasoline, electric, or hydraulically powered paddle-type mixer.

WORKING TIME:

Approximately 30 minutes at 80° Fahrenheit (F). The working time will be extended at lower temperatures and shortened when higher.

APPLICATION:

MAINSTAY ML-72 can be applied by low to medium velocity wet mix shotcrete equipment (pneumatic spray) or by hand using a trowel. Application thicknesses up to 5" in single or multiple passes are possible depending on the amount of water added, the condition of the surfaces being treated, and jobsite conditions. A variety of piston, systolic, and rotor/stator pumps may be used depending on job requirements and desired production rates. Consult a Mainstay Technical Representative for information regarding equipment that is best suited for your job.

FINISHING:

MAINSTAY ML-72 can be finished using a steel trowel, wood float, sponge float, broom, or brush, depending on the surface texture desired. If **MAINSTAY ML-72** is to be top-coated, it is recommended that the surface be finished to a smooth, somewhat grainy texture using a sponge or wood float.

CURING:

If applicable, **MAINSTAY ML-72** should be topcoated immediately after finishing or as soon as the surface becomes firm to the touch. If not top-coated, **MAINSTAY ML-72** should be kept moist with clean water for the first 72 hours after placement.

CLEAN Up:

Clean equipment and tools with clean tap water.

DELIVERY & STORAGE:

Check containers for damage, and verify quantities before accepting shipments. Store **MAINSTAY ML-72** in a cool, dry place.

SHELF LIFE:

1 year, depending on storage conditions, subject to re-inspection thereafter.

SAFETY:

KEEP OUT OF REACH OF CHILDREN.

FOR INDUSTRIAL USE ONLY.

MAINSTAY ML-72 contains portland cement and chemicals that **MAY CAUSE EYE, SKIN, RESPIRATORY, OR NERVOUS SYSTEM SENSITIZATION**. Adequate health and safety precautions should be observed during all storage, handling, use, and drying periods. For best results and safest usage, user is specifically directed to consult the current "Material Safety Data Sheet" for this product. When using this product in a confined space or closed area, consult the current the OSHA or American National Standards Institute (ANSI) bulletins on safety requirements. Do not take internally. If swallowed, call a physician immediately. Keep away from open flame, and

keep containers tightly closed when not in use.

WARRANTY:

All technical data, recommendations, and services are rendered by the Seller gratis. They are based on technical data that the Seller believes to be reliable and are intended for use by persons having skill and knowledge at their discretion and risk. Seller assumes no responsibility for results obtained or damages incurred from their use by the Buyer whether as recommended herein or otherwise. Such recommendations, technical advice, or services are not to be taken as a license to operate or intended to suggest infringement of any existing patent. MADEWELL PRODUCTS CORPORATION MAKES NO GUARANTEE OR WARRANTIES EXCEPT AS OTHERWISE PROVIDED IN WRITING AND DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Compressive Strength ASTM C-109	24 hours 28 days	3,000 psi 10,000 psi
Flexural Strength ASTM C-293	24 hours 28 days	535 psi 1,505 psi
Tensile Strength ASTM C-496*	24 hours 28 days	330 psi 910 psi
Freeze/Thaw ASTM C-666	323 cycles	No Visible Damage
Shrinkage ASTM C-596	28 days @ 90% Rh	0%
Bond Strength ASTM C-882*	28 days	3,440 psi
Density		135 lbs/ft ²

*Uniaxial tensile bond strength should achieve a minimum of 1 Newton/mm² (145 psi) over a sound, properly prepared substrate. However, bond is highly dependent on degree of surface preparation and substrate strength.

**MATERIALS AND SERVICES IN THIS SECTION TO BE
PROCURED BY CONSTRUCTION MANAGER**

MANHOLE LINING

PART 1 - GENERAL

1.01 SUMMARY

- A. Section includes:
 - 1. This Section includes, but is not necessarily limited to, restoration and corrosion barrier composite liner for concrete and brick structures as indicated on the Drawings, as specified herein, and as necessary for the proper and complete performance of the Work.
- B. **Unless specifically noted, CONSTRUCTION MANAGER shall procure the materials and services described in this section; therefore, all requirements of Part 1, Part 2 and Part 3 of this specification are the responsibility of the CONSTRUCTION MANAGER.**
- C. **CONTRACTOR is responsible for bypass pumping of the lift station during installation of the manhole lining system.**
- D. Related Sections:
 - 1. Documents affecting work of this Section include, but are not necessarily limited to:
 - a. General Conditions, Supplementary Conditions and Sections in Division 1 of these Specifications.

1.02 REFERENCES

- A. Except as herein specified or as indicated on the Drawings, the work of this Section shall comply with the following:
 - 1. ASTM Standard Test Methods:
 - a. C78 - Flexural Strength of Concrete (Using Simple Beam with Third-Point Loading).
 - b. C109 - Compressive Strength of Hydraulic Cement Mortars (Using 2-in. Cube Specimens).
 - c. C157 - Length Change of Hardened Hydraulic-Cement, Mortar and Concrete.
 - d. C876 - Half-Cell Potentials of Uncoated Reinforcing Steel in Concrete.
 - e. D4138 - Measurement of Dry Film Thickness of Protective Coating Systems by Destructive Means.
 - 2. International Concrete Repair Institute (ICRI) Technical Guideline:
 - a. No. 03730 – Surface Preparation Guidelines for the Repair of Deteriorated Concrete Resulting From Reinforcing Steel Corrosion.
 - 3. ACI Standard:
 - a. 305R - Hot Weather Concreting.
 - b. 503R - Use of Epoxy Compounds for Coating Concrete.

1.03 SUBMITTALS

- A. Submit in accordance with Section 01 33 00 – Submittals.
- B. Manufacturer's literature:

MATERIALS AND SERVICES IN THIS SECTION TO BE PROCURED BY CONSTRUCTION MANAGER

1. Submit for coating products.
 2. Required information:
 - a. Name of Manufacturer.
 - b. Physical properties.
 - c. Surface preparation.
 - d. Application instructions.
 - e. Curing instructions.
- C. Certification:
1. Manufacturer's statement that the applicator is trained and approved in the application of the specified products.

1.04 QUALITY ASSURANCE

- A. Qualifications:
1. Fabrication and installation personnel:
 - a. Trained and experienced in the fabrication and installation of the materials and equipment.
 - b. Knowledgeable of the design and the reviewed submittals.

1.05 DELIVERY, STORAGE AND HANDLING

- A. Receiving and storage:
1. All materials shall be delivered in original, unbroken, brand marked containers or wrapping as applicable.
 2. Handle and store materials:
 - a. In a manner which will prevent:
 - 1) Deterioration or damage.
 - 2) Contamination with foreign matter.
 - 3) Damage by weather or elements.
 - b. In accordance with Manufacturer's directions.
 - 1) Storage temperature of Corrosion Barrier Mortar: 40 to 80 degrees F.
- B. Rejected material and replacements:
1. Reject damaged, deteriorated or contaminated material and immediately remove from the Site.
 2. Replace rejected materials with new materials at no additional cost to OWNER.

1.06 WARRANTY

- A. Warrant manhole liner against failure for a period of 10 years. "Failure" will be deemed to have occurred if the protective lining fails to (a) prevent the internal deterioration or corrosion of the structure (b) protect the substrate and environment from contamination by effluent or (c) prevent groundwater infiltration. If any such failure occurs within 10 years of initial completion of work on a structure, the damage will be repaired to restore the lining at no cost to the Owner within 60 days after written notification of the failure. "Failure" does not include damage resulting from mechanical or chemical abuse or act of God. Mechanical or chemical abuse means exposing the lined surfaces of the structure to any mechanical force or chemical substance not customarily present or used in connection with structures of the type involved.

PART 2 - PRODUCTS

2.01 MAINSTAY COMPOSITE LINER SYSTEM

**MATERIALS AND SERVICES IN THIS SECTION TO BE
PROCURED BY CONSTRUCTION MANAGER**

- A. Manufacturer:
1. Madewell Products Corporation, 7561 Industrial Court, Alpharetta, Georgia 30004. Phone (770) 475-8199.
- B. Hydraulic Cement Mortar: Mainstay ML-10. Fast-setting mortar used to stop leaks through cracks and holes.
1. Composition: Blend of hydraulic cements and fillers.
 2. Compressive Strength, ASTM C109:
 - a. 1 Day: 3,500 psi.
 - b. 7 Days: 4,900 psi.
 - c. 28 Days: 5,500 psi.
 3. Tensile Strength, ASTM C190:
 - a. 7 Days: 290 psi.
 - b. 28 Days: 575 psi.
 4. Working Time: 45 to 90 seconds at 77 degrees F.
 5. Color: Dark gray.
- C. Restoration Mortar: Mainstay ML-72 Sprayable Microsilica Cement Mortar. Low shrinkage, high strength, sprayable microsilica mortar.
1. Composition: Blend of cements, microsilica, thermoplastic fibers, densifiers, and modifiers. Mortar shall not contain calcium aluminate cements or aggregates.
 2. Thickness: 1 inch minimum.
 3. Compressive Strength, ASTM C109:
 - a. 1 Day: 3,000 psi.
 - b. 28 Days: 10,000 psi.
 4. Flexural Strength, ASTM C293:
 - a. 1 Day: 535 psi.
 - b. 28 Days: 1,400 psi.
 5. Tensile Strength, ASTM C496:
 - a. 1 Day: 330 psi.
 - b. 28 Days: 790 psi.
 6. Shrinkage, ASTM C596:
 - a. 28 Days @ 90%: 0.01 percent.
 7. Uniaxial Tensile Bond Strength, ACI 503R, Appendix A:
 - a. 28 Days: Greater than 500 psi over high strength concrete (5,000 psi compression strength concrete - bond strength governed by substrate tensile strength). Minimum acceptable bond = 145 psi.
 8. Color: Dark gray.
- D. Corrosion Barrier Coating: Mainstay DS-5 Ultra High Build Epoxy Coating.
1. Composition: 100 percent solids, modified epoxy coating.
 2. Thickness: Minimum of 100 mils in 1 or 2 coats.
 3. Number of Components: 2.
 4. Finish: Gloss.
 5. Color: White.
- E. Manhole Frame Seal: Madewell 806 Flexible Epoxy
1. Composition: 100% solids, flexible epoxy trowel-grade mastic.
 2. Thickness: Minimum of 1/4 inch.
 3. Number of Components: 2.
 4. Finish: Semigloss.
 5. Color: Light gray.

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 27, 2022	Approve an expenditure of approximately \$100,900 for equipment replacement
Council Goal:	Agenda Type:	
Maintain and improve public infrastructure and facilities	Decision Items	
Prepared by:	Reviewed by:	Approved by:
Public Works Director B. Zuspan	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve an expenditure of \$109,900 for equipment replacement.

Background:

The current tractor and mower attachment is a 1996 Model New Holland with an after-market Tiger brand flail head that is well beyond its life expectancy. This equipment is experiencing new problems each time it is used. Parts inventory are extremely hard to locate. Due to an aging hydraulic system and humidity factors in the electronics system, it needs repair more often than it is used. This equipment is used to maintain street right-of-ways as well as utility easements.

The current 1996 Tractor and Mower system will be recommended for surplus while it is functioning.

Fiscal Impact:	Fiscal Year:	GL Number:
\$100,900	2022-2023	011-110-620500

Attachment:

1. Bid quote & pics
2. Link for video- <https://www.trucksite.com/inventory/1956-2015-john-deere-6105m-utility-tractor-w-tiger-boom-mower.html>



TRUCK SITE
1317 Vinci Ave
Sacramento, CA 95838
(916) 927-5000

INVOICE

INVOICE #: 4061

Sales Rep: Alex Ivanov

July 20, 2022

BILL TO:

City of Toledo
415 N Industrial Parkway
Toledo, OR 97391
United States

SHIP TO:

City of Toledo
415 N Industrial Parkway
Toledo, OR 97391
United States

Unit	Description	Amount
2015 John Deere 6105M Utility Tractor w/ Tiger Boom Mower	VIN: 1L06105MHFH818431 Stock: 14744	\$98,500.00
	Doc Fee	\$85.00
	Deposit	(\$1,000.00)
	Shipping	\$3,300.00

Unit Total	\$98,500.00
Fee Total	\$85.00
Deposit Total	(\$1,000.00)
Shipping Total	\$3,300.00
Grand Total	\$100,885.00

Doc Fee covers the cost of preparation and processing required documentation for a vehicle purchase as allowed by the California Department of Motor Vehicles. Env Fee covers the cost of handling potentially hazardous materials like fuel, oil, cleaners, batteries, and sediment. Truck Site invests in solutions intended to minimize impacts to our environment and comply with Federal, State, and local regulations. This fee is not a government mandated tax or fee.

PAYMENT INFORMATION:

Wire Transfer To:

Wells Fargo Bank
San Francisco, CA
Credit to: Wells Fargo Bank
Further credit to: Fleet Guy, LLC dba Truck Site
Acct: 2930384165
ABA: 121000248
SWIFT code: WFBUS6S

Pay To:

Truck Site
1317 Vinci Ave
Sacramento, CA 95838
Please include the Invoice number 4061 with your payment

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 27, 2022	Approve Declaration of Cooperation for preliminary steps to develop a Homeless Response System for Lincoln County
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Manager J. Richter	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to approve the Declaration of Cooperation for Preliminary Steps to develop a Homeless Response system for Lincoln County and appoint Mayor Rod Cross as an advisory committee member and _____ as an alternate advisory committee member.

Background:

House Bill 4123 provides grant funding in the amount of \$1,000,000 to eight counties in Oregon to create coordinated homeless response systems. Lincoln County is one of the eight counties selected to receive the funding. A preliminary planning meeting was held on June 22, 2022. It was determined that the Lincoln County Health & Human Services Department would handle the administration of the grant. Lincoln County will proceed with a Request for Proposal to hire a consultant to help create the Homeless Response Office and another consultant to formulate the creation of the five year strategic plan. It was the consensus that Lincoln County, the Confederated Tribes of Siletz and all cities of Lincoln County determine who is able and willing to participate on a preliminary advisory committee to help guide the process. Mayor Rod Cross has expressed an interest and willingness to serve on the committee. An alternate delegate should be determined.

The Declaration of Cooperation is a non-binding document which stands as a statement of good faith and support for the effort.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachment:

1. Declaration of Cooperation for Preliminary Steps to Develop a Homeless Response System for Lincoln
2. HB 4123

DECLARATION OF COOPERATION PRELIMINARY STEPS TO DEVELOP A HOMELESS RESPONSE SYSTEM FOR LINCOLN COUNTY

Introduction and Purpose of this Declaration of Cooperation

This declaration of cooperation is a non-legally binding statement of good faith to initiate certain actions required under House Bill 4123, a bill that provides grant funding in the amount of \$1,000,000 to eight counties in Oregon to create coordinated homeless response systems. Lincoln County is one of the eight counties to receive \$1,000,000 of funding for this purpose.

House Bill 4123 requires that an advisory board be created with representatives from the governing bodies of each participating member of government. The governing bodies that are invited to participate on the advisory board include the Confederated Tribes of Siletz Indians, Lincoln County, and the cities of Depoe Bay, Lincoln City, Newport, Siletz, Toledo, Waldport and Yachats.

On Wednesday June 22, 2022 a meeting was convened among local units of government to discuss implementation of House Bill 4123. At this meeting there was a consensus to take several initial steps in order to implement the requirements of HB 4123. The financial administration of this grant will be handled by the Lincoln County Health and Human Services Department. Lincoln County will proceed with a request for proposals to hire a consultant to help create the establishment of the coordinated Homeless Response Office and a second consultant to formulate the creation of a 5-year strategic plan. It was the consensus of the group that a declaration of cooperation be drafted and sent to Lincoln County, the Confederated Tribes of Siletz, and all the cities of Lincoln County to determine who is able and willing to participate on a preliminary advisory committee to help guide this process. A formal agreement has to be entered into with participating communities and non-profit corporations within 90 days of receipt of the grant funding by Lincoln County. The preliminary advisory committee established through this declaration of cooperation will meet to address the requirements that fall within the first 90 days following receipt of the grant funding. It is likely that a formal agreement and successor advisory board will be created at the conclusion of this 90-day timeframe.

Required Timetables for Implementing House Bill 4123 Requirements

House Bill 4123 requires counties receiving the grant funding to conduct various activities during certain prescribed time frames. These requirements are as follows:

1. Within 90 days of receiving the grant funding enter into an agreement among member governments and non-profit corporations, if any, to create a coordinated homeless response system that consists of, at a minimum;
 - a. The establishment of a coordinated homeless response office.
 - b. An advisory board with representatives from the governing body of each member of government.

- c. Specific roles of each member to support the advisory board and office.
 - d. Plans for coordination with any local continuum of care receiving funding under 24C.F.R.part578.
 - e. Establishment of a centralized point of contact for the office.
2. No later than November 15, 2023 each coordinated homeless response system shall provide a report to the Housing and Community Services Department, Oregon Housing Stability Council, and one or more appropriate interim committees of the legislative assembly in the manner provided in ORS 192.245 describing any goals adopted, changes in services, and challenges and opportunities in addressing homelessness services and planning, needs for technical assistance, and addressing racial disparities.
 3. Within one year of receiving a grant under this section, a coordinated homeless response system, through the advisory board or each member of government to the agreement shall adopt a 5-year strategic plan that will identify and set goals for addressing funding to support operations, increasing or streamlining resources and services, incorporating national best practices for ending homelessness, eliminating racial disparities, and creating pathways to permanent and supportive housing.
 4. By November 15, 2024 each coordinated homeless response system shall provide a second annual report to the Housing and Community Services Department, Oregon Housing Stability Council, and one or more appropriate interim committees of the legislative assembly in the manner provided in ORS 192.245 describing any goals adopted, changes in services, and challenges and opportunities in addressing homelessness services and planning, needs for technical assistance, and addressing racial disparities.

Declaration of Cooperation Commitments

Lincoln County, the Confederated Tribes of Siletz Indians, and the Cities of Depoe Bay, Lincoln City, Newport, Siletz, Toledo, Waldport and Yachats are invited to participate on a preliminary advisory committee to implement preliminary steps to develop a Homeless Response System for Lincoln County. Each participating government is requested to have their governing body approve this Declaration of Cooperation and name a governing body member and an alternate governing body member to participate in the tasks described below.

During the first 90 days following receipt of the grant funding the advisory committee will guide the development of an agreement among member governments and non-profit corporations to create a coordinated homeless response system that consists of the establishment of a coordinated homeless response office, an advisory board with representation from the governing body of each member of government, specific roles of each member organization to support the advisory board and office, plans for coordinating any local continuum of care receiving funding under 24C.F.R.part578 and establishing a centralized point of contact for the office.

The advisory committee will be seated through the initial development of the items described in the declaration of cooperation commitments. A successor advisory board will be created under the terms of the Coordinated Homeless Response Agreement developed with the advisory committee following this 90-day period. Those governmental units electing to continue participating in this effort will be asked at that time to enter into a Coordinated Homeless Response Agreement for Lincoln County through the duration of the grant period.

MOTION APPROVING A DECLARATION OF COOPERATION FOR PRELIMINARY
STEPS TO DEVELOP A HOMELESS RESPONSE SYSTEM FOR LINCOLN COUNTY

I move to approve a non-binding Declaration of Cooperation to develop a Homeless
Response System for Lincoln County and appoint from the Governing Body
_____ as a committee member and _____ as
an alternate committee member.

Approved Ayes _____ Nays _____

Unit of Government _____

Signed _____
(Mayor, Chair)

Signed _____
(Recorder, Secretary)

Date Motion is Approved
_____, 2022

Enrolled

House Bill 4123

Sponsored by Representatives KROPF, WILLIAMS, Senator PATTERSON, Representatives EVANS, GOMBERG, HOY, SMITH G, ZIKA, Senators ANDERSON, ARMITAGE, GELSER BLOUIN, HANSELL, KNOPP, THOMSEN; Representatives ALONSO LEON, CAMPOS, DEXTER, FAHEY, GRAYBER, HIEB, LEVY, MARSH, MOORE-GREEN, NOBLE, NOSSE, REYNOLDS, SOSA, WEBER (Presession filed.)

CHAPTER

AN ACT

Relating to coordinated homeless response systems; and declaring an emergency.

Whereas the lack of available housing, high rents and high home prices are driving rapid increases in housing instability and homelessness in Oregon; and

Whereas Oregon has experienced a significant increase in the number of people experiencing homelessness and unsheltered homelessness; and

Whereas funding, resources and services to address homelessness in Oregon are not scaled to meet this need; and

Whereas the lack of housing affordability and availability in Oregon cannot be addressed without cross-jurisdictional collaboration; and

Whereas communities require coordinated leadership and governance to identify local needs and centralize communication, policy and services to end homelessness; now, therefore,

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Oregon Department of Administrative Services shall provide grants to local governments and nonprofit corporations that agree to, within 90 days of receipt of grant funding, enter into an agreement among the member governments and nonprofit corporations, if any, to create a coordinated homeless response system that consists of, at a minimum:

- (a) The establishment of a coordinated homeless response office;**
 - (b) An advisory board with representation from the governing body of each member government;**
 - (c) Specific roles of each member to support the advisory board and office;**
 - (d) Plans for coordination with any local continuum of care receiving funding under 24 C.F.R. part 578; and**
 - (e) The establishment of a centralized point of contact for the office.**
- (2) Grants provided under this section shall be used by the coordinated homeless response system to:**
- (a) Hire necessary staff for the office;**
 - (b) Support coordinated communications and public engagement;**
 - (c) Support community outreach and policy development, including stipends for people with current or recent lived experience of homelessness;**

(d) Acquire technical assistance and capacity building, including contracting with consultants; and

(e) Pay for other expenses reasonably necessary to meet the requirements under this section.

(3) Within one year of receiving a grant under this section, a coordinated homeless response system, through the advisory board or each member government to the agreement, shall adopt a five-year strategic plan that will identify and set goals for addressing:

(a) Funding to support the ongoing operations of the coordinated homeless response system;

(b) Increasing or streamlining resources and services to people at risk of or experiencing homelessness within the participating cities and counties;

(c) Incorporating national best practices for ending homelessness;

(d) Eliminating racial disparities within homeless services within the service area; and

(e) Creating pathways to permanent and supportive housing that is affordable to local populations experiencing or at risk of homelessness.

(4) No later than November 15, 2023, and September 15, 2024, each coordinated homeless response system shall provide a report to the Housing and Community Services Department, Oregon Housing Stability Council and one or more appropriate interim committees of the Legislative Assembly in the manner provided in ORS 192.245 on:

(a) The goals adopted in the five-year strategic plan and the progress made in implementing the plan;

(b) Other changes in homelessness services, ordinances of member governments relating to homelessness and partnerships or programs established that are specifically related to member government actions arising out of the agreement; and

(c) Identified challenges and opportunities relating to:

(A) Regional coordination of homelessness services and planning;

(B) Needs for technical assistance regarding program development or other programs from the Housing and Community Services Department; and

(C) Addressing racial disparities through partnerships with culturally specific and responsive organizations serving populations overrepresented in experiencing homelessness, including Black, Indigenous, People of Color, federally recognized tribes and tribal members and outreach and engagement with these populations.

(5) In performing tasks under this section, a coordinated homeless response system shall coordinate with and develop partnerships with local and regional stakeholders, including, but not limited to:

(a) Advocates for people experiencing homelessness and for people with lived experience of homelessness;

(b) Community action agencies;

(c) Housing authorities;

(d) Affordable housing providers;

(e) Behavioral health providers;

(f) Law enforcement;

(g) Educational agency liaisons for homeless children as described in 42 U.S.C. 11432;

(h) Local Department of Human Services offices;

(i) Courts;

(j) Legal aid;

(k) Coordinated care organizations, as described in ORS 414.572;

(L) Emergency shelter providers;

(m) Homeless service providers;

(n) Organizations serving and advocating for veterans, homeless youth, youth exiting the foster care system, individuals exiting the criminal justice system, people with disabilities and aging adults, health care systems, domestic violence and sexual assault survivors,

members of lesbian, gay, bisexual, transgender, queer or questioning (LGBTQ) communities, people experiencing behavioral health and substance use disorders, faith communities and business communities; and

(o) The Housing and Community Services Department.

(6) In performing its duties under this section, a coordinated homeless response system shall coordinate with law enforcement, service providers and governing bodies to implement safe and humane processes to maintain public and environmental health and safety, balancing important individual and community rights.

(7) A coordinated homeless response system may use grant funds in excess of those funds needed by the system to accomplish the requirements of the system under subsections (1) to (6) of this section to support the delivery of homeless services and shelter consistent with the five-year strategic plan, including through contracts with service providers.

SECTION 2. Section 1 of this 2022 Act is repealed on January 2, 2025.

SECTION 3. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Department of Administrative Services, for the biennium ending June 30, 2023, out of the General Fund, to provide grants under section 1 of this 2022 Act for a coordinated homeless response system:

(1) \$1,000,000 to Benton County for a response system consisting of Benton County, the City of Corvallis and any other parties to the agreement forming the response system.

(2) \$1,000,000 to Coos County for a response system consisting of Coos County, the City of Coos Bay, the City of North Bend and any other parties to the agreement forming the response system.

(3) \$1,000,000 to Deschutes County for a response system consisting of Deschutes County, the City of Bend, the City of La Pine, the City of Redmond and the City of Sisters.

(4) \$1,000,000 to Lincoln County for a response system consisting of Lincoln County, the City of Lincoln City, the City of Newport, the City of Toledo and any other parties to the agreement forming the response system.

(5) \$1,000,000 to the Mid-Columbia Community Action Council for a response system consisting of the Mid-Columbia Community Action Council, Hood River County, Sherman County, Wasco County, the City of The Dalles, the City of Hood River and any other parties to the agreement forming the response system.

(6) \$1,000,000 to Polk County for a response system consisting of Polk County, the City of Dallas, the City of Falls City, the City of Independence, the City of Monmouth, the City of Willamina, the Confederated Tribes of the Grand Ronde, Mid-Willamette Valley Community Action Agency and any other parties to the agreement forming the response system.

(7) \$1,000,000 to Tillamook County for a response system consisting of Tillamook County, the City of Tillamook, Bay City, the City of Garibaldi, the City of Rockaway Beach, the City of Wheeler, the City of Manzanita, Tillamook County Community Action Resources Enterprises, Inc. and any other parties to the agreement forming the response system.

(8) \$1,000,000 to Umatilla County for a response system consisting of Umatilla County, the City of Umatilla, the City of Stanfield, the City of Echo, the City of Hermiston and any other parties to the agreement forming the response system.

SECTION 4. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

Passed by House March 2, 2022

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Dan Rayfield, Speaker of House

Passed by Senate March 3, 2022

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2022

Approved:

.....M.,....., 2022

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2022

.....
Shemia Fagan, Secretary of State

**CITY OF TOLEDO
REQUEST FOR COUNCIL ACTION**

	Meeting Date:	Agenda Topic:
	July 27, 2022	Informing Council of Leaking Underground Storage Tank (LUST) Clean Up and delegating authority to the City Manager to sign an agreement with the Department of Environmental Quality
Council Goal:	Agenda Type:	
Not Applicable	Decision Items	
Prepared by:	Reviewed by:	Approved by:
City Attorney M. Adams	City Manager Judy Richter	City Manager Judy Richter

Recommendation:

Motion to enter into a Leaking Underground Storage Tank Cost Recovery Agreement with the Department of Environmental Quality, and delegating the City Manager to sign the agreement.

Background:

On July 18, 2022, the City received a letter from the Oregon Department of Environmental Quality (DEQ) regarding underground storage tanks at 200 Main Street, Toledo, Oregon. This address is the City's parking lot next to City Hall, which was purchased by the City in 1992. In 1997, the City demolished the old Texaco Gas Station, and removed the four underground storage tanks on the site, which could hold a total of 14,550 gallons of fuel. However, the sign off and final approval by DEQ never occurred. To get a Project Manager assigned, the City needs to enter the Leaking Underground Storage Tank (LUST) Cost Recovery Agreement. A Project Manager needs to sign off on a "No Further Action" letter before the property is deemed cleaned up. Hopefully, this can be done without an environmental report by a consultant being required.

Recommend the City Council vote to enter the LUST Cost Recovery Agreement.

Fiscal Impact:	Fiscal Year:	GL Number:
Unknown	2022-2023	N/A

Attachments:

1. Leaking Underground Storage Tank Cost Recovery Agreement
2. Letter sent to Department of Environmental Quality with attachments
3. Frequently asked questions handout
4. The Underground Storage Tank decommissioning report sent to the City
5. Oregon Revised Statutes 465.330



OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY LEAKING UNDERGROUND STORAGE TANK PROGRAM

LUST Cost Recovery Agreement

This document serves as an agreement between the undersigned (hereinafter "you") and the Department of Environmental Quality (DEQ) regarding DEQ site-specific technical consultation, review, and oversight of the investigation and/or cleanup of petroleum (hazardous substances) at the property located at:

Facility Name: City Texaco Station
Address: 200 N MAIN STREET, TOLEDO
LUST No.: 21-97-4123

DEQ agrees to review environmental documents submitted by you or on your behalf regarding the investigation and/or cleanup of the above-referenced site. Additional details regarding DEQ oversight will be established upon review of the initial site data.

DEQ requires that persons requesting DEQ site-specific technical consultation, review, and oversight of investigation and cleanup activities agree to the terms of this agreement and pay project oversight costs.

DEQ project oversight costs will include direct costs and indirect costs. Direct costs include site-specific expenses and legal costs. Indirect costs are those general management and support costs of the DEQ, including the Land Quality Division (LQD), allocable to DEQ oversight of this agreement and not charged as direct, site-specific costs. Indirect charges are based on a percentage of direct personal services costs. Review and oversight costs shall not include any unreasonable costs or costs not otherwise recoverable by DEQ under ORS 465.255.

DEQ costs are due within thirty (30) days of issuance of the monthly statement, by a check made payable to the "Department of Environmental Quality".

Electing not to enter into this agreement does not release you from any responsibility that you might have for any reporting requirements, investigation and/or cleanup of petroleum (hazardous substances) at the above referenced facility. This does not preclude the DEQ from conducting audits or inspections of all or portions of the investigation and cleanup activities associated with this facility. Enforcement action may be initiated if any violation of DEQ requirements is found.

Either DEQ or you may terminate this agreement by giving 15 days advance written notice to the other. Only those costs incurred or obligated by DEQ prior to the effective date of any termination of the agreement shall be recoverable under this Agreement. Termination of this agreement will not affect any other right DEQ may have for recovery of costs under any applicable law.

You will hold DEQ harmless for any claims (including but not limited to claims of property damage or personal injury) arising from DEQ review and/or oversight activities under this agreement.

This agreement is not and shall not be construed to be an admission by you of any liability under ORS 465.255 or any other law or as a waiver by you of any defense to such liability. This agreement is not and shall not be construed to be a waiver, release, or settlement of claims that DEQ may have against you or any other responsible person nor is this agreement a waiver of any enforcement authority that DEQ may have.

The DEQ Western Region Cleanup Program will be responsible for the review and oversight of the investigation and cleanup activities associated with the property. Please refer all site-specific inquiries to deqwr.cleanup@deq.oregon.gov.

All inquiries regarding cost recovery and/or invoices should be directed to Dawn Ismerio at 503-229-5812.

If the terms of this agreement are acceptable, please have it executed by an authorized officer in the space provided below. In order to more effectively schedule your project, please return this agreement within 30 days of receipt to: DEQ Western Region Salem Office, Cleanup Program, 4026 Fairview Industrial Drive SE, Salem, OR 97302 or you may scan and email the completed form to deqwr.cleanup@deq.oregon.gov.

Accepted and agreed to this _____ day of _____, 2022

Signed By: _____

Print Name: _____

Title: _____

Please provide the following information as to where the invoices should be sent:

Individual Name: _____

Title: _____

Company Name: _____

Mail Address: _____

City, State, Zip: _____

Phone Number: _____

E-mail Address: _____



State of Oregon Department of Environmental Quality

Frequently Asked Questions on Underground Storage Tank Cleanup Notices

The Oregon Department of Environmental Quality's Leaking Underground Storage Tank Program works with responsible parties to reduce contamination of soil and groundwater.

An open, or "unresolved" LUST site means that a release has occurred from a petroleum underground storage tank system that requires corrective action. If not corrected, the petroleum or other hazardous substances leaking from the tank can seep into soil and contaminate groundwater, a vital source of drinking water. A leaking tank can also present other health and environmental risks, including vapor intrusion into buildings and residences and potential for fire and explosion.

Responsible parties are required to investigate and cleanup releases from underground storage tanks to protect public health and the environment. Many of these LUST sites have been unresolved for decades.

DEQ is therefore notifying responsible parties of their open LUST sites and the steps they need to take to cleanup contaminated sites properly.

In addition, DEQ is contacting responsible parties to help expedite cleanup in response to the U.S. Environmental Protection Agency's goal for DEQ to close, or resolve more LUST sites, which occurs when DEQ issues a No Further Action decision.



An environmental consultant removing an old steel underground storage tank.

Why am I receiving this notification?

The notification and cost recovery agreements are sent to current property owners. If there are other potentially responsible parties DEQ should be aware of, please contact your regional office.

DEQ may designate a LUST site as high priority if there is significant potential for adverse impacts to public health and the environment. When DEQ designates a site as high priority, the requirement to cleanup the site is considered urgent. DEQ will contact the responsible party of these sites directly in addition to sending notifications.

I no longer own this property. Am I still responsible for cleanup?

A responsible party is usually the current owner or operator of the facility or property. However, previous owners or operators, or anyone who causes, contributes to or worsens the contamination, may be considered a responsible party as well.

What is a cost recovery agreement?

Oregon law (ORS 465.330) requires DEQ to recover all reasonable costs associated with the investigation and cleanup of contaminated sites from the responsible party(s). A cost recovery agreement contains details on DEQ's project oversight actions, as well as invoicing and payment requirements.

What happens after I sign the cost recovery agreement?

Once a cost recovery agreement is signed, the site is placed on a regional waitlist until DEQ can assign a project manager. Consult with a DEQ regional office about potential wait times. After a DEQ project manager is assigned, DEQ will provide a monthly cost recovery bill for project management costs. Please see the Leaking Underground Storage Tank Cleanup Information Packet for more information regarding DEQ's cost recovery.

How much does DEQ's oversight cost?

The cost of DEQ's oversight depends on many factors, such as the degree and extent of contamination and the amount of DEQ oversight required. DEQ's oversight costs an average of \$200 per hour. Submitting complete and accurate work plans and reports to DEQ from experienced environmental consultants may reduce DEQ's costs. After a project manager is assigned, responsible parties can request an estimate for DEQ's oversight costs.

Why didn't DEQ notify me about this before?

DEQ notifies the responsible party upon receipt of a report of a release from an underground storage tank. The notification includes information and instructions on how to begin the cleanup process. It is then the responsible party's obligation to complete the cleanup or to notify any potential buyers of contamination during the sale of the property. All open LUST sites must be investigated and cleaned up.

DEQ will continue to oversee all open LUST sites until issuing a No Further Action decision. DEQ is also establishing an annual reminder process for responsible parties to ensure LUST sites are closed.

How long does it take to close the site with DEQ?

Once DEQ oversight begins, the time to cleanup and close the site varies based on factors encountered during the cleanup process such as the degree and extent of contamination. DEQ must review and approve the final cleanup report before issuing a No Further Action decision. Please contact your DEQ project manager for an estimated timeline.

Am I required to close this site?

Responsible parties are required to cleanup any leak from an underground storage tank in accordance with OAR 340-122-0217.



Collecting soil samples next to a leaking underground storage tank.

What happens if I don't do anything in response to this letter?

The letter from DEQ explains what action is required. If DEQ designated your site as high priority, signing a cost recovery agreement and initiating cleanup is required to avoid enforcement action. DEQ will provide advanced notice if urgent action is required.

How do I find my regional office contact?

If you have any questions or concerns, please contact your DEQ regional office:

Northwest Region

Ximena Cruz Cuevas
503-229-6811

Eastern Region

Alyssa Leidel
541-633-2023

Western Region

Dylan Whitney
541-972-5521

Resources

- [General program information](#)
- [Cleanup Manual](#)
- [Tanks Cleanup Guidance](#)

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.oregon.gov.
deqinfo@deq.oregon.gov.



Michael E. Adams | City Attorney
City of Toledo
541-336-2247, Ext 2080 | Direct: 541-635-2008
206 N. Main St, Toledo, Oregon 97386
www.cityoftoledo.org

July 20, 2022

Tina Elayer
Department of Environmental Quality
165 East 7th Avenue, Suite 100
Eugene, OR 97401

RE: LUST No. 21-97-4123

Dear Tina,

I write on behalf of the City of Toledo to follow up on conversation this morning, to provide additional information, and respond to DEQ's letter dated July 13, 2022.

After entering the above-referenced Leaking Underground Storage Tank (LUST) number into DEQ's website, I was able to identify that the "City Texaco Station," 200 N. Main Street, Toledo, Oregon, is Tax Lot 11500 on Lincoln County Tax Assessor's Map 11-10-17-BB, which the DEQ letter references. It is the paved parking lot next to the Toledo City Hall.

I was able to find the following information as to the underground storage tanks:

1. From DEQ's website, release stopped date 08/04/1997, cleanup start date 08/04/1997, and no cleanup end date. For work reported, soil treatment 9/1/1997, tank decommissioning 8/1/1997, and soil matrix cleanup 8/1/1997.

2. The City purchased the property by deed, recorded in Book 241, Page 790, Lincoln County Deed records, on March 10, 1992.

3. From the property file for Tax Lot 11500, a demolition permit application, dated July 14, 1997, was filed by the City Manager. Under "describe demolition to occur," it states "demolish building & clear lot, and remove tanks (underground storage tanks)." Under "describe site-clean up schedule," it provides "haul away debris as of Sept 30th, 1997."

4. From City Minutes, dated July 21, 1997, there was discussion of a resolution exempting the underground tank removal process from the public contracting code, and the minutes provide:

"Fencing will be place[d] around the demolition project and the tank removal will not be started until after the Summer Festival. At this time, it is apparent that enough funds have been budgeted to cover the demolition of the station and the removal of the tanks."

5. From the City's Resolutions, Resolution No. 1019, referenced-above, passed unanimously on July 21, 1997.

6. From City Minutes, dated August 4, 1997, the City Manager's report to the City Council in that meeting on August 4, 1997, provides that:

"The underground tanks are now being removed from the former Texaco site. Contaminated soil will also be removed and aerated to be used later when it passes inspection. The company will be monitoring the soil according to DEQ standards. Once the contaminated soil is removed from the site other fill material can replace it."

7. From additional City Minutes, dated August 18, 1997, the City Manager's report to the City Council in that meeting on August 18, 1997, provides that:

"Preliminary reports of soil samples from the former Texaco station are within the testing parameters and aerating is going well. Other soils with heavier petroleum products will be hauled away to a designated site."

I have enclosed all of the information referenced above, as well as pictures of the current parking lot next to City Hall. As I mentioned, there are no further updates to the City Council contained in the minutes during the next couple of years, likely at least in part due to the fact that the City Council was attempting to hire a new City Manager in early 1998.

Based on the City's Minutes, it does appear that the underground storage tanks were removed from Tax Lot 11500. Further, the only reason the City Manager would report to the City Council that "the company will be monitoring the soil according to DEQ standards," is if he had been told that by the company contracted to remove the tanks. Thus, it appears coordination with DEQ also occurred. However, not a final completion date or closing the loop on the project once the tanks were removed. I understand from our conversation that the Lust Cost Recovery Agreement must be signed before a Project Manager will be assigned who can sign off the project and issue a "no further action" letter when it is deemed to have been completed.

Thank you for your conversation and attempting to find information before a Project Manager is assigned. If there are any questions or concerns, please contact me at 541-635-2008 or mike.adams@cityoftoledo.org. Thanks for your consideration in this matter.

Sincerely,

Michael E. Adams



Oregon

Kate Brown, Governor

JUL 18 2022

Department of Environmental Quality
Western Region Eugene Office
165 East 7th Avenue, Suite 100
Eugene, OR 97401
(541) 686-7838
Fax (541) 686-7551
TTY 711

July 13, 2022

Michael Dowsett
City of Toledo
PO Box 220
Toledo, OR 97391-0220

RE: Additional Work Required for Petroleum Leak
City Texaco Station, 200 N MAIN STREET, TOLEDO, LINCOLN
LUST No. 21-97-4123

Dear Michael Dowsett:

You are receiving this letter because the Oregon Department of Environmental Quality (DEQ) maintains an open file on your leaking underground storage tank (LUST). Additional investigation of the contamination and possible cleanup may be necessary before DEQ can issue a no further action determination indicating the petroleum contamination does not pose an unacceptable risk to human health and the environment. A no further action letter is usually needed to sell or refinance the property.

You are required to assess and clean up petroleum leaks and to submit all reports, plans, laboratory data and other documentation to DEQ per Oregon Administrative Rule 340-122-0217. If you have performed additional investigation or cleanup at the property but have not submitted this information to DEQ, please do so.

DEQ encourages you to sign the enclosed LUST Cost Recovery Agreement and return the agreement to DEQ. A signed agreement will prioritize your site for DEQ review. Once DEQ receives the signed agreement, the project will be assigned to the next available project manager. Information on the Leaking Underground Storage Tank Cleanup Program's cost recovery process may be viewed at <https://www.oregon.gov/deq/tanks/Pages/Cost-Recovery.aspx>.

If you have any questions about the Leaking Underground Storage Tank Cleanup Program, visit our website <https://www.oregon.gov/deq/tanks/Pages/Leaking-Undergr-Tanks.aspx>.

If you have any questions about this letter, please visit <https://www.oregon.gov/deq/tanks/Pages/FAQs-on-cleanup-notice.aspx> for more information, or contact DEQ's LUST Duty Officer at (503) 229-5696 or by email at info.lust@deq.oregon.gov.

Sincerely,

Michael E. Kucinski, Manager
Western Region Cleanup & Emergency Response

Enclosure: Cost Recovery Form, FAQs on Underground Storage Tank cleanup notices
cc: File, LUST# 21-97-4123



Oregon Department of Environmental Quality
City Texaco Station

[Print](#)

Summary Information

General Site Information

21-97-4123

Site Name: City Texaco Station
Address: 200 N MAIN STREET
 TOLEDO, 97391
County: LINCOLN
Site Type: Soil Matrix Cleanup
Project Manager N/A - Currently Unassigned.

Basic Incident Information

Received Date: 08/05/1997
Status: UNASSIGNED
Tank Type: Regulated Tank

UST Facility Id: 11432

Assessment Information

Cause of Release:	NOT REPORTED	Source of Release:	TANK	Discovery Method:	DECOMMISSIONING
Media Effected	Contaminants Released				
>Soil >GroundWater	>MiscGas				

Delineate Soil YES **Delineate Ground Water** YES **Soil Delineated** YES

Management Information

Release Stopped Date: 08/04/1997 **Cleanup Start Date:** 08/04/1997 **Cleanup End Date:**

Work Reported Information

Work Reported	Reported Date
Soil Treatment	9/1/1997
Tank Decommissioning	8/1/1997
Soil Matrix Cleanup	8/1/1997

This website application cannot be made compliant with the Americans with Disabilities Act. We apologize for any inconvenience and invite you to contact DEQ at 800-452-4011 or email deqinfo@deq.state.or.us for assistance in accessing this site

Department of Environmental Quality

700 NE Multnomah Street, Suite 600 Portland, OR 97232
 Hours: Mon-Fri, 8 a.m.-5 p.m

Email: DEQInfo@deq.state.or.us | Phone: 503-229-5696 | Fax: 503-229-6124

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L.C.T. 202524

WARRANTY DEED

BOOK 241 PAGE 0790

KNOW ALL MEN BY THESE PRESENTS, That Herman Fieber, an estate
in fee simple

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by
City of Toledo, a municipal corporation, hereinafter called
the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and
assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or ap-
pertaining, situated in the County of Lincoln and State of Oregon, described as follows, to-wit:

Lots 7 and 8, Block 15, GRAHAM'S 4TH ADDITION TO TOLEDO (now
known as 5th Addition to the Town of Toledo), in the City of
Toledo, County of Lincoln and State of Oregon. EXCEPTING
THEREFROM that portion conveyed to the City of Toledo by
instrument recorded August 27, 1985, in Book 164, page 294,
Film Records for Lincoln County, Oregon.

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that
grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances except
the real property taxes for the year 1991-92

and that

grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims
and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is a donation of at least
\$46,000.00.
~~However, the actual consideration paid for this transfer, stated in terms of dollars, is a donation of at least \$46,000.00.~~

~~Consideration (indicate which)~~ (The sentence between the symbols ©, if not applicable, should be deleted. See ORS 93.030.)
In construing this deed and where the context so requires, the singular includes the plural and all grammatical
changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 5th day of March, 1992;
if a corporate grantor, it has caused its name to be signed and its seal affixed by an officer or other person duly
authorized to do so by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DE-
SCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND
USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING
THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE
PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR
COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Herman Fieber
Herman Fieber

STATE OF OREGON, County of Lincoln ss.

This instrument was acknowledged before me on March 5, 1992,
Herman Fieber

This instrument was acknowledged before me on _____, 19____,



Renee L. Ballinger
Notary Public for Oregon

My commission expires 5/13/92

Herman Fieber
1110 SE River Road
Toledo, OR 97391

GRANTOR'S NAME AND ADDRESS

City of Toledo
P.O. Box 220
Toledo, OR 97391

GRANTEE'S NAME AND ADDRESS

After recording return to:

City of Toledo
P.O. Box 220
Toledo, OR 97391

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

City of Toledo
NO taxes since municipal
ownership

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of _____ ss.

STATE OF OREGON } ss.
County of Lincoln

Dana W. Jenkins, County Clerk, in and for said county, do hereby
certify that the within instrument was received for record, and
recorded in the Book of Records of said county at Newport, Oregon.

Book 241 Page 790

WITNESS my hand and seal of said office affixed.
DANA W. JENKINS, County Clerk

By _____ Deputy

Doc : 6075424

Rect : 27146

35.00

03/10/1992 04:01:03PM

LCT

NAME

TITLE

By _____ Deputy

2837

I (We) hereby request a permit to ~~(build) (remodel) (install) (repair)~~ a

Assessors Map No. 11-10-17 BB

Tax Lot No. 11500

The undersigned agrees to execute the work in conformity with the plans and specifications submitted herewith and in compliance with the provisions of all applicable City ordinances.

approved

Building Inspector
Building Desk Coordinator

Date Permit approved 7-14-97

Estimated

Construction Value \$

Contractor Allan Parker

OR License No. 088205

Expiration Date

City Lic. # 1195-

City of Toledo

Property Owner

By Scott Weber / M. J. Jones, City Manager

Permit Fee \$

Plan Review Fees \$

FOR MANUFACTURED DWELLING INSTALLATION:

Installer's Name:

Installer's MDI License No.:

Installer's DDB Registration No.:

Mfrd. Dwelling Dealer's Name:

Describe site-clean up schedule haul away debris as of sept. 30th, 1997

Will handrails or barricades be provided for safety concerns?

Yes

No

Applicant is required to cap-off existing City utility lines, as per City requirements (see reverse).

Remove water meter Prior to demolition.

The undersigned agrees to execute the work in conformity with the plans and specifications submitted herewith and in compliance with the provisions of all applicable City ordinances.

Applicant

Date _____

NOTE: THIS APPLICATION MUST BE SIGNED BY THE PROPERTY OWNER

I am/we are the owner(s) of the described property.

☐ A copy of the deed is attached to demonstrate ownership.

Property Owner(s)

Date _____

forms#2:bldgprmt.frm\demoltn.app
5/2/97

CITY OF TOLEDO
COMMUNITY DEVELOPMENT AND PLANNING DEPARTMENT
DEMOLITION PERMIT APPLICATION

Date 7-14-97 Permit Number 2837

Property Address 200 N. Main St., Toledo, OR 97391
Assessor's Map No. 11-12-17 BB Tax Lot No. 11500

Property Owner(s) City of Toledo Phone 335-2247
Address 206 N. Main St

Applicant's Name Same Phone _____
Address _____

Contractor No. _____ Expiration Date _____ Toledo Business Lic. No. _____

Type of structure: ☒ Commercial ☐ Residential ☐ Industrial

Is this application associated with an existing land use or building permit application? Yes _____ No X

Describe demolition to occur Demolish Building + Clear lot, pro
Remove TANKS (underground storage TANKS)

Describe erosion control plan no

Describe site-clean up schedule haul away debris as of sept. 30th, 1997

Will handrails or barricades be provided for safety concerns? Yes _____ No X

Applicant is required to cap-off existing City utility lines, as per City requirements (see reverse).

Remove water meter Prior to demolition.

The undersigned agrees to execute the work in conformity with the plans and specifications submitted herewith and in compliance with the provisions of all applicable City ordinances.

Applicant _____

Date _____

NOTE: THIS APPLICATION MUST BE SIGNED BY THE PROPERTY OWNER

I am/we are the owner(s) of the described property.

☐ A copy of the deed is attached to demonstrate ownership.

M. B. [Signature], City Manager For City of Toledo, Or
Property Owner(s)

7/14/97
Date

forms#2:bldgprmt.frm\demolitn.app
5/2/97

It was moved and seconded (Gerttula/Richards) to approve the Consent Calendar which consists of the invoice list dated July 16, 1997. The motion passed unanimously, noting the absence of Councilor Mackenroth.

ORDER GRANTING APPEAL TO AIR TOUCH CELLULAR FOR A CONDITIONAL USE PERMIT IN A PUBLIC LANDS ZONE, AN EXCEPTION TO THE REQUIREMENTS IN THE ZONING ORDINANCE TO ALLOW ACCESS FROM A PRIVATE DRIVE RATHER THAN A CITY STREET AND AN EXCEPTION TO THE HEIGHT REQUIREMENTS TO CONSTRUCT A CELLULAR PHONE TOWER AT 260 MAGNOLIA STREET, INCLUDING FINDINGS OF FACT AND CONDITIONS OF APPROVAL:

CDC Gager reviewed the proposed orders, which include slight changes, incorporated comments and the consensus from Council arising out of the appeal hearing held July 7, 1997. She note that the changes include the color of the tower, landscaping requirements and the timing of the geotechnical work. Given these comments, staff recommended the orders, as prepared.

CDC Gager answered several questions posed by Council which were clarified in the proposed order.

A suggested change to Condition 1(f) was to also note that there would be no other lights above the tree line.

Councilor Gerttula declared that, because of her absence at the hearing, she would abstain from voting.

It was moved and seconded (Chambers/Zimmerman) to adopt the order relating to the Conditional Use, as proposed and recommended by the staff report, findings, and including the conditions of approval. The motion passed unanimously, noting the absence of Councilor Mackenroth and the abstention of Councilor Gerttula.

It was moved and seconded (Dobmeier/Richards) to adopt the order concerning access and height exceptions, as proposed and recommended by the staff report, findings and including the conditions of approval. The motion passed unanimously, noting the absence of Councilor Mackenroth and the abstention of Councilor Gerttula.

PROPOSED RESOLUTION EXEMPTING FROM THE BIDDING PROCESS THE FORMER TEXACO GAS STATION UNDERGROUND STORAGE TANK REMOVAL:

CM Dowsett clarified that the title of the resolution should be corrected to read "formal quote process" instead of "bidding". He continued, saying that the only provider in the area is Statewide Environmental Services. Fencing will be place around the demolition project and the tank removal will not be started until after the Summer Festival. At this time, it is apparent that enough funds have been budgeted to cover the demolition of the station and the removal of the tanks.

It was moved and seconded (Richards/Dobmeier) to adopt Resolution No. 1019. The motion passed unanimously, noting the absence of Councilor Mackenroth.

PROPOSED RESOLUTION REQUESTING SPECIAL CITY ALLOTMENT FUNDS:

PWD Jennings reviewed the history of this ODOT program and noted that the City has benefited from the funds several times. He also said that the funds are to be used for small cities and on City streets/roads that are in poor condition that carry a high volume of traffic. His suggestion for the use of the funds is the improvement of the Truck Route. The truck route traffic has increased by 8%, for G-P traffic alone, and the anticipated completion of the TIP will bring more use to the route. He added that part of the funds, may also be used as matching funds for "immediate opportunity fund" grants which may come available through ODOT.

Council discussion centered around the funds being used to repair streets used by large corporations, the need to repair the truck route for the TIP development, and the reasons behind the program which are to help small cities deal with big traffic problems.

It was also mentioned that there are other truck route problems, surrounding the use of longer trailers, that will hopefully be solved by ODOT.

It was moved and seconded (Gerttula/Richards) to adopt Resolution No. 1020. The motion passed with Councilor Zimmerman voting no and noting the absence of Councilor Mackenroth.

CITY MANAGER'S REPORT:

1. The County Commissioner's public hearing on the annexation of Toledo to the Transit District is scheduled for August 6, 1997. CM Dowsett will also be attending.
2. A potential recall election was discussed. Staff noted that the chief petitioner has 90 days in which to obtain 171 signatures of registered voters in Toledo before an election can be called. The elections officer (City Recorder) then has ten days in which to verify the signatures. After verification is completed, an election is held within 35 days. It was noted that an election would cost the City approximately \$1,450.
3. CM Dowsett requested that the Council authorize him to sign the temporary OLCC permit, after the fact, to allow a beer garden at Memorial Field during the Summer Festival. Even though this annual activity was discussed at a previous meeting, it is recommended that the City Council authorize the signing of the permit.

RESOLUTION NO. 1019

**EXEMPT FROM COMPETITIVE BIDDING THE FORMER TEXACO GAS STATION
UNDERGROUND STORAGE TANK REMOVAL**

WHEREAS, the City Council acting as the local contract review board, is empowered to exempt certain purchases from competitive bidding and formal quotation; and

WHEREAS, the City has received notification from the Department of Environmental Quality to decommission the underground storage tanks located at the former Texaco Gas Station (Fieber property); and

WHEREAS, the contract would be for less than \$10,000 and therefor exempt from competitive bids; and

WHEREAS, the attached (Exhibit 1) memorandum from the City Manager, acting as the purchasing agent under City Policy number 117-B, City Purchasing, has provided the reasons for the single source exemption from formal quotation; and

WHEREAS, there is only one licensed service provider in the Newport/Toledo area for underground storage tank removal.

NOW, THEREFORE, BE IT RESOLVED:

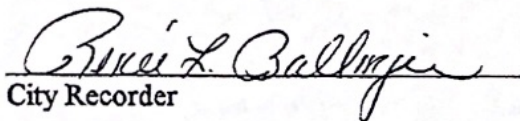
1. The City Council, acting as the contract review board as provided within Toledo Code Chapter 2.32.010, provides the project be exempt from competitive quotation.

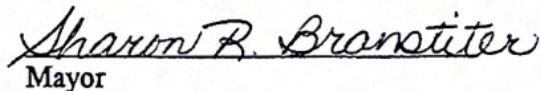
PASSED by the City Council on this
21st day of July, 1997.

APPROVED by the Mayor on this
21st day of July, 1997.

ATTEST:

APPROVED:


City Recorder


Mayor

prevention team has increased. Various activities have included station tours, a summer safety camp, parades, and school visitations.

A discussion followed about the cadet program and its positive influence on career decisions for young people.

FC Simmons said that he will be leaving tomorrow to take the chassis of the new fire truck where the body is under construction. The truck will be completed in approximately two months.

CITY MANAGER'S REPORT:

1. A check to the Recreation Department for \$100 was received from Bob Brown. It is very much appreciated.
2. Staff is continuing the poll of street lights, noting concerns from citizens. The majority of inquiries appears to be in the "A" Street area. PC Pryor will follow-up and report back by the next meeting before Council decides to take further action.
3. The underground tanks are now being removed from the former Texaco site. Contaminated soil will also be removed and aerated to be used later when it passes inspection. The company will be monitoring the soil according to DEQ standards. Once the contaminated soil is removed from the site other fill material can replace it.
4. The Lincoln County Commissioners are holding a public hearing on Wednesday, August 6th, 9:30 am, concerning the annexation of Toledo to the transit district.

COUNCIL COMMENTS:

Councilor Zimmerman asked PC Pryor, in reference to the street light update, to include crime statistics in relationship to the street lights.

Councilor Gerttula reported on her attendance at the following:

1. A local committee met last week with Red Cross Blood Donor Program officials to discuss how to improve the donor turnout in Toledo. It was reported that in order to keep Toledo as a blood drive site, there must be at least 35 donors every time. This quota has been met only once in the last several blood drives.

The next official Red Cross Blood Drive is being held this Thursday, the 7th, from 2-7 pm at the Toledo Elks. The following Drive is scheduled for November 5th or 6th at Georgia-Pacific from 1-6 pm. She suggested that

reports as a guide for other jurisdictions, which she considered quite a compliment.

Both Councilors Gerttula and Mackenroth said that the DLCD suggestion was a well-deserved compliment.

CITY MANAGER'S REPORT:

1. The planter boxes on Main Street have been repainted and replanted, thanks to Karen Choat and Toledo Foursquare Church junior high group. "Thank you's" will be sent.
2. Staff is also sending "thank you's" to the people involved with the repainting of the pool. It was originally planned to send a letter to the editor of the Newport News-Times thanking the volunteers and, at the same time, informing the community about the project. However, the paper informed staff that this could not be done and the City would have to place an ad, instead, for \$75. As an alternative, a stuffer will be sent with the water bills.
3. Preliminary reports of soil samples from the former Texaco station are within the testing parameters and the aerating is going well. Other soils with heavier petroleum products will be hauled away to a designated site.
4. Copies of the complaint list concerning the disconnection of street lights was distributed to Council. The Police Chief has contacted PUD to reconnect three street lights. The program will continue to evolve as more information from the community is received. A memo concerning crime statistics and lights is included in the Council packets.

The City may have to ask voters, but can't until the next general election in November, 1998, to decide the fate of the street light program.

LaRue Hart, a concerned citizen, asked when and by whom was the original street light study made and was told that the Police Department was assigned the study and recommendation of which lights could be turned off while not jeopardizing public safety.

She said that she disagreed with the Council's decision and was concerned about pedestrian safety and crime.

Floyd Ferguson said that on his street, NE Elder, the middle light in the street was turned off leaving the two at each end on and he could tell no difference.

Councilor Gerttula noted that someone on the list requested that a nearby light be turned off.



State of Oregon Department of Environmental Quality

Frequently Asked Questions on Underground Storage Tank Cleanup Notices

The Oregon Department of Environmental Quality's Leaking Underground Storage Tank Program works with responsible parties to reduce contamination of soil and groundwater.

An open, or "unresolved" LUST site means that a release has occurred from a petroleum underground storage tank system that requires corrective action. If not corrected, the petroleum or other hazardous substances leaking from the tank can seep into soil and contaminate groundwater, a vital source of drinking water. A leaking tank can also present other health and environmental risks, including vapor intrusion into buildings and residences and potential for fire and explosion.

Responsible parties are required to investigate and cleanup releases from underground storage tanks to protect public health and the environment. Many of these LUST sites have been unresolved for decades.

DEQ is therefore notifying responsible parties of their open LUST sites and the steps they need to take to cleanup contaminated sites properly.

In addition, DEQ is contacting responsible parties to help expedite cleanup in response to the U.S. Environmental Protection Agency's goal for DEQ to close, or resolve more LUST sites, which occurs when DEQ issues a No Further Action decision.



An environmental consultant removing an old steel underground storage tank.

Why am I receiving this notification?

The notification and cost recovery agreements are sent to current property owners. If there are other potentially responsible parties DEQ should be aware of, please contact your regional office.

DEQ may designate a LUST site as high priority if there is significant potential for adverse impacts to public health and the environment. When DEQ designates a site as high priority, the requirement to cleanup the site is considered urgent. DEQ will contact the responsible party of these sites directly in addition to sending notifications.

I no longer own this property. Am I still responsible for cleanup?

A responsible party is usually the current owner or operator of the facility or property. However, previous owners or operators, or anyone who causes, contributes to or worsens the contamination, may be considered a responsible party as well.

What is a cost recovery agreement?

Oregon law (ORS 465.330) requires DEQ to recover all reasonable costs associated with the investigation and cleanup of contaminated sites from the responsible party(s). A cost recovery agreement contains details on DEQ's project oversight actions, as well as invoicing and payment requirements.

What happens after I sign the cost recovery agreement?

Once a cost recovery agreement is signed, the site is placed on a regional waitlist until DEQ can assign a project manager. Consult with a DEQ regional office about potential wait times. After a DEQ project manager is assigned, DEQ will provide a monthly cost recovery bill for project management costs. Please see the Leaking Underground Storage Tank Cleanup Information Packet for more information regarding DEQ's cost recovery.

How much does DEQ's oversight cost?

The cost of DEQ's oversight depends on many factors, such as the degree and extent of contamination and the amount of DEQ oversight required. DEQ's oversight costs an average of \$200 per hour. Submitting complete and accurate work plans and reports to DEQ from experienced environmental consultants may reduce DEQ's costs. After a project manager is assigned, responsible parties can request an estimate for DEQ's oversight costs.

Why didn't DEQ notify me about this before?

DEQ notifies the responsible party upon receipt of a report of a release from an underground storage tank. The notification includes information and instructions on how to begin the cleanup process. It is then the responsible party's obligation to complete the cleanup or to notify any potential buyers of contamination during the sale of the property. All open LUST sites must be investigated and cleaned up.

DEQ will continue to oversee all open LUST sites until issuing a No Further Action decision. DEQ is also establishing an annual reminder process for responsible parties to ensure LUST sites are closed.

How long does it take to close the site with DEQ?

Once DEQ oversight begins, the time to cleanup and close the site varies based on factors encountered during the cleanup process such as the degree and extent of contamination. DEQ must review and approve the final cleanup report before issuing a No Further Action decision. Please contact your DEQ project manager for an estimated timeline.

Am I required to close this site?

Responsible parties are required to cleanup any leak from an underground storage tank in accordance with OAR 340-122-0217.



Collecting soil samples next to a leaking underground storage tank.

What happens if I don't do anything in response to this letter?

The letter from DEQ explains what action is required. If DEQ designated your site as high priority, signing a cost recovery agreement and initiating cleanup is required to avoid enforcement action. DEQ will provide advanced notice if urgent action is required.

How do I find my regional office contact?

If you have any questions or concerns, please contact your DEQ regional office:

Northwest Region

Ximena Cruz Cuevas
503-229-6811

Eastern Region

Alyssa Leidel
541-633-2023

Western Region

Dylan Whitney
541-972-5521

Resources

- [General program information](#)
- [Cleanup Manual](#)
- [Tanks Cleanup Guidance](#)

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.oregon.gov.
deqinfo@deq.oregon.gov.

11432
CITY OF TOLEDO
200 N MAIN
TOLEDO, OR 97391



State of Oregon
Department of
Environmental
Quality

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Oregon Department of Environmental Quality
UNDERGROUND STORAGE TANK DECOMMISSIONING/SERVICE CHANGE REPORT

DEQ FACILITY NUMBER: 11432

DATE: 8-8-97

FACILITY NAME: City Texaco Station (Toledo)

FACILITY ADDRESS: 200 N. Main St.
Toledo, Oregon

PHONE: 503-336-4336
Contact: Michael Dowsett

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WESTERN REGION SALEM OFFICE

The following information **MUST** be submitted by the underground storage tank owner, operator or licensed DEQ Supervisor within 30 days following completion of the tank decommissioning or changing tank contents to a non-regulated substance. (OAR 340-150-001 through -150)

The attached supplemental checklist should be prepared by the person performing the decommissioning or service change. The checklist should be provided to DEQ and the tank owner to demonstrate that all required practices were followed.

Ordinarily the checklist is filled out by the DEQ licensed Service Provider or Supervisor. Owners who wish to personally decommission a tank or change service must follow all DEQ and other applicable standards. The owner should contact the DEQ Regional Office prior to starting the work to receive current copies of underground storage tank regulations.

A. DATES:

Decommissioning/Service Change Notice - Date Submitted: 7-1-97 (30 days before work starts)

Work Start Telephone Notice - Date Submitted: 7-30-97 (3 working days before work starts) 3d-97-044

DEQ Person Notified: Jim Parr

Date Work Started: 8-4-97

Date Work Completed: 8-8-97

Note: Provide the following information if any soil or water contamination is found during the decommissioning or service change. Contamination must be reported by the UST owner or operator within 24 hours. The licensed service provider must report contamination within 72 hours after discovery unless previously reported.

Date Contamination Reported: 8-5-97 By: Wayne Riggs (S.E.S.)

DEQ Person Notified: Jim Parr

Backfill Telephone Notice - Date Called: 8-6-97 (before backfilling) 2:55 pm #8697-1547

DEQ Person Notified: Jim Parr

B. PERMITS:

Note: DEQ permits or an addendum to the UST permit(s) may be needed where soil or water cleanup is required.

DEQ Water Discharge Permit #: N/A Date: N/A

Disposed to (Location): N/A

DEQ Solid Waste Disposal Permit #: N/A Date: N/A

B. PERMITS (Continued)

UST Soil Treatment Permit Addendum - Type: _____ Date: _____

Soil Disposal or Treatment Location: City owned land - Lot 5

C. TANK INFORMATION:

Tank #	DEQ UST Permit	Tank Size in (Gallons)	Product: Gasoline, Diesel, Used Oil, Other?		Closure or Service Change?			Tank to be Replaced?	
			Present	New	Tank Removal	Closure [∞] Inplace	Other [∞] Use	Yes*	No
1	BDJKF	6,000	GASOLINE		✓				✓
2	BDJKG	4,000	GASOLINE		✓				✓
3	BDJKH	4,000	GASOLINE		✓				✓
4	BDJKJ	550	WASTE OIL		✓				✓

* Where decommissioned tank(s) are replaced by new underground storage tanks the UST owner or operator must submit a new permit application containing information on the new tanks 30 days before placing them in service.

∞ Submit a soil sampling plan to the DEQ regional office and receive plan approval prior to starting work if 1) tank is to be decommissioned in-place, 2) tank contents are changed to a non-regulated substance, 3) tank contains a regulated substance other than petroleum, or 4) tank changed to non-regulated use.

D. DISPOSAL INFORMATION:

Tank #	Tank & Piping Disposal Method				Disposal Location of Tank Contents *	
	Scrap	Land-fill	Other	Identify Location & Property Owner	Liquids	Sludges
1	✓			KING SALVAGE Newport, Oregon	Oil Re-refinery Portland, Oregon	
2	✓			SAME	SAME	
3	✓			SAME	SAME	
4	✓			SAME	SAME	

* Note: The tank contents, the tank and the piping may be subject to the requirements of Hazardous Waste regulations. If you have questions, contact the DEQ Hazardous Waste Section at (503) 229-5913 or DEQ regional office hazardous waste staff.

E. CONTAMINATION INFORMATION:

Tank #	Ground* water in pit?	Product odor in soil?	Product stains in soil?	Number of Samples	Laboratory (Name, City, State, Phone)
1	YES	YES	YES	total	REA Environmental Science, Salem, Or
2	YES	YES	YES	EXCESS	
3	YES	YES	YES	OF	
4	YES	YES	YES	20	
				SAMPLES	
					SAME
					SAME
					SAME

* Note: Sampling is required if groundwater is encountered. See cleanup rules.

F. SITE SKETCH:

(Show location of adjacent roads, property lines, structures, dispenser, & all USTs) (Show North, general direction of ground slope and soil sample locations. Sketch does not need to be drawn to scale. You may attach a separate drawing.)

SEE ATTACHED

G. WORK PERFORMED BY:

DEQ Service Provider's License #: 14568 Construction Contractors License #: 106993

Name: STATEWIDE Environmental

Telephone: 541-265-2425

DEQ Decommissioning Supervisor's License #: 10202

Name: Wayne Riggs

Telephone: 541-265-2425

DEQ Soil Matrix Service Provider's License #: 14567 (If applicable)

Name: STATEWIDE Environmental

Telephone: 541-265-2425

DEQ Soil Matrix Supervisor's License #: 10820 (If applicable)

Name: Wayne Riggs

Telephone: 541-265-2425

H. ATTACHMENTS TO THIS REPORT:

1. Attach a copy of the laboratory report showing the results of all tests on all soil and water samples. The laboratory report must identify sample collection methods, sample location, sample depth, sample type (soil or water), type of sample container, sample temperature during transportation, types of tests, and copies of analytical laboratory reports, including QA/QL information. Include laboratory name, address and copies of chain-of-custody forms.

2. If contamination is detected and a Level 2 or Level 3 soil matrix cleanup standard is selected attach a copy of the soil matrix analysis for the site including methods of determining soil type, depth to groundwater, and sensitivity of uppermost aquifer.

I. REPORT FILING:

This report, signed by the tank owner or operator, complete with all applicable attachments must be filed with DEQ headquarters within 30 days after the excavation is backfilled or change-in-service is complete. Contact the DEQ regional office prior to filing this report where special circumstances exist at the site (such as water in pit, remaining pockets or contamination, etc.).

NOTE: If contamination was found during site assessment at decommissioning or change-in-service and reported to DEQ regional office, this report may be submitted with either the first interim cleanup report or the final cleanup report, whichever is first.

Return Completed and Signed Form to: Department of Environmental Quality
UST Program - Decommissioning Report
811 S.W. Sixth Ave.
Portland, Oregon 97204

Or FAX Completed and Signed Form to: (503) 229-6954

I have personally reviewed this report and the attachments and find them to be true and complete.

Signature: [Signature] Date: 8/28/97
(Owner or Operator)

For information: (503) 229-5733 or Toll Free in Oregon UST HELPLINE 1-800-742-7878

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FEB 11 1998

Waste Management & Cleanup Division
Department of Environmental Quality

Oregon Department of Environmental Quality
UNDERGROUND STORAGE TANK DECOMMISSIONING CHECKLIST

DEQ FACILITY NUMBER: 11432 DATE: 8-8-97
 FACILITY NAME: City Texaco Station (Toledo)
 FACILITY ADDRESS: 200 W. Main St.
Toledo, Oregon
 PHONE: 503-336-4336 - Contact: Micheal Dowsett

A. SAFETY EQUIPMENT ON JOB SITE:

Fire Extinguisher: Type/Size: 30# ABC
 Combustible Gas Detector: Model: MSA 261
 Oxygen Analyzer: Model: MSA 261

Recharge Date: 3-2-97
 Calibration Date: 5-30-97
 Calibration Date: 5-30-97

**B. DECOMMISSIONING: All Tanks: (Unk. = Unknown, N/A = Not Applicable)
 (Check Appropriate Box)**

1. All electrical equipment grounded and explosion proof?
2. Safety equipment on job site?
3. Overhead electrical lines located?
4. Subsurface electrical lines off or disconnected?
5. Natural gas lines off or disconnected?
6. No open fires or smoking material in area?
7. Vehicle and pedestrian traffic controlled?
8. Excavation material area cleared?
9. Rainwater runoff directed to treatment area?
10. Drained and collected product from lines?
11. Removed product and residual from tank?
12. Cleaned tank?
13. Excavated to top of tank?
14. Removed tank fixtures? (pumps, leak detection equip.
15. Removed product, fill and vent lines?

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Yes	No	Unk	N/A
✓			
✓			
✓			
✓			
			✓
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			
✓			

C. TANK ABANDONMENT IN-PLACE:

16. Sampling plan approved by DEQ?
 Date: _____ DEQ Staff: N/A

			✓
--	--	--	---

B. DECOMMISSIONING: All Tanks: (Unk. = Unknown, N/A = Not Applicable)
(Check Appropriate Box)

Yes	No	Unk	N/A
	✓		
✓			

17. Contamination concerns fully resolved?

18. Fill Material? Type: Dirt / 3/4 Rock

D. TANK REMOVAL:

19. Tank placement area cleared, chocks placed?

20. Purged or ventilated tank to prevent explosion?

Method used: CO₂ Meter reading: 8%

21. No chains or steel cables wrapped around tank for removal?

22. Tank removed, set on ground, blocked to prevent movement?

23. Tank set on truck and secured with strap(s)?

24. Tank labeled before leaving site?

✓			
✓			
✓			
✓			
✓			
✓			

E. SITE ASSESSMENT:

25. Site assessed for contamination? See OAR 340-122-340

26. Soil samples taken and analyzed?

27. Decommissioning/Change-in-Service report sent to DEQ?

28. Was contamination found? Date/Time: 8-4-97 - 10:30am

29. Was contamination reported to DEQ? By: WAYNE RIGGS
Date/Time: 8-5-97 8:45am DEQ Staff: Jim Parr

30. Was hazardous waste determination made for tank contents (Liquids/sludges)?

✓			
✓			
✓			
✓			
✓			
✓			

31. Disposal location of tank(s) contents.

Name: Oil Refinery Co.

Date: 7-30-97

Address: 701 Bozarth St.

Woodland, WA 98674

Attach disposal receipt.

32. Disposal or recycling location of removed tank(s) and associated piping.

Name: King Salvage

Date: 8-7-97

Address: 109 King Place

Newport, Oregon

Attach disposal receipt.

33. If tank(s) are intended to be reused, identify new tank site.

Name: N/A

Date: _____

Address: _____

Purpose of Reuse: _____

F. WORK PERFORMED BY:

DEQ Service Provider's License #: 14567-14568

Name: Statewide Environmental

Telephone: 541-265-2425

DEQ Decommissioning Supervisor's License #: 10202

Name: Wayne Riggs

Telephone: 541-265-2425

E. CHECKLIST FILING:

1. Provide copy of checklist to the UST owner and operator.
2. Send completed checklist to the DEQ headquarters within 30 days after the excavation is backfilled.

NOTE: If contamination was found during decommissioning and reported to DEQ regional office, this report may be submitted with either the first interim cleanup report or the final cleanup report, whichever is first.

Send Completed Form to: Department of Environmental Quality
UST Program - Decommissioning Checklist
811 S.W. Sixth Ave.
Portland, Oregon 97204

I have personally reviewed this decommissioning checklist and find it to be true and complete.

Signature: Wayne Riggs Date: 8-28-97
(Licensed Supervisor)

Signature: Mike S. [unclear] City Manager Date: 8/28/97
(Owner or Operator)

For information: (503) 229-5559 or Toll Free in Oregon 1-800-452-4011

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FEB 11 1998

Waste Management & Cleanup Division
Department of Environmental Quality

CITY OF TOLEDO

CITY HALL
P.O. Box 220
Toledo, Oregon 97391
(541) 336-2247

May 12, 1997

TO: Mr. Greg Toran
Department of Environmental Quality
Business Office
811 S.W. 6th
Portland, OR 97204

RE: Four (4) Underground Storage Tanks
200 N. Main Street, Toledo, OR 97391
Facility No. 11432

Dear Mr. Toran:

Enclosed please find a copy of all the permit application forms I could locate regarding the above-referenced tanks. I was unable to locate the original documents. Please contact me if you have any questions or if you need additional information.

Sincerely,



T. Jenkins
Executive Secretary

Enclosure

DECK Ginny

From: TORAN Greg
Sent: Monday, May 12, 1997 12:31 PM
To: DECK Ginny
Cc: TORAN Greg
Subject: fac 11432 City of Toledo

Received fee assessment of \$420.00 for 1995/97 fees. All back fees paid in full. According to City of Toledo, (4) tanks to close in 1997. 30 day notice not received at HQ. These tanks were thought to have been closed in 1994 based on good intentions.

Close out the tanks on sequent when you receive the closure reports.

May 23, 1997

Facility ID No: 11432

Dear Tank Owner/Permittee:

We received a decommissioning notice on May 13, 1997
for four (4) underground storage tank(s) located at:

City of Toledo
200 N Main
Toledo OR 97391

DEPARTMENT OF
ENVIRONMENTAL
QUALITY

Western Region -
Salem Office

Checking our records, it appears the tanks are registered, permit fees are current, and the service provider, Statewide Environmental Services, is licensed. You are required to confirm the date of removal with the appropriate regional office (see "cc" below) at least 72 hours prior to tank removal. If you have any further questions about your permit fees, facility information or DEQ Licensed Contractors please call Jim Parr at (503) 378-8240 extension 242.

An assessment must be conducted at all tank sites and contamination must be reported within 24 hours of discovery. OAR 340-122-301 through 340-122-360 contains the sampling requirements necessary when decommissioning underground storage tanks. As soon as contamination is identified in any manner, including observations of visible staining or odors, it must be reported. If obvious signs of contamination are present in the excavation, **DO NOT** wait until you receive the sample results to report the contamination.

If you need to report contamination or have any general questions regarding site cleanup or UST compliance issues, please contact the regional office at the number listed below.

***** REMINDER:** The UST Decommissioning/Change-In-Service Report form and the UST Decommissioning Checklist form must be submitted within 30 days after completion of work.

Sincerely,



Ginny Deck
Office Specialist
Western Region Tanks Program Salem

cc: Jim Parr
Western Region - Salem Office
750 Front St. NE, Suite 120
Salem, OR 97310
(503) 378-8240



750 Front St. NE
Suite 120
Salem, OR 97310
(503) 378-8240
(503) 378-3684 TDD
DEQ/WVR-101 1-91

UST FACILITY WORKSHEET

FACILITY ID# 11432

DATE 5/10/97

ACCESS ENTRY ☐

- ☐ Request Fees
- ☐ Request D/report
- ☐ Request D/checklist
- ☐ Request I/checklist
- ☐ Request Other
- ☐ 30 Day Notice

LETTER TO MAIL ☐

- ☐ Copy region office
- ☐ Enclosures
- ☐ Action requested (list below)
- ☐ Copy HQ facility file

PERMIT TO MAIL ☐

REPORTS RECEIVED ☐

- ☐ 30 Day
- ☐ D/report
- ☐ D/checklist
- ☐ I/checklist
- ☐ Notice to upgrade
- ☒ Oracle updated
- ☐ Reports sent to region
- ☐ Access updated

UST's of Concern ☐1 ☐2 ☐3 ☐4 ☐5 ☐6 ☐7 ☐8 ☐9 ☐other _____

Response due date: _____

Initial GET

No Further Action At This Time ☐

Action: Confirm tank closure with city of Toledo.
Update fee status on Sequant / UST Comment screen
Email to WR-S.

UST PERMIT INFORMATION

Date received _____

Region WR-S

County Lincoln

Fees due: Fees pif thru 97

Permit Type:

☐ New

☐ Mod

☒ Existing

☐ Replacement

Comments: Fee Assessment of \$420.00 received 5/8/97. Tanks to close (4)
in 1997. Permits not issued in 1994. 30 day not received
at HQ.

P1F

P

**Oregon Department of Environmental Quality
UNDERGROUND STORAGE TANK DECOMMISSIONING/CHANGE-IN-SERVICE 30 DAY NOTICE**

FACILITY (Location of Tanks)

Name: CITY OF TOLEDO
(Former Texaco Service Station)

Address: 200 N. Main, Toledo, OR 97391
(adjacent to City Hall)

Phone: (541) 336-2247 ext. 111

DEQ Facility I.D. Number: #11432

Work To Be Performed By: Statewide Environmental Services
(Owner or Licensed Service Provider)

Phone: (503) 265-2425

TANK OWNER

Name: City of Toledo, Oregon

Address: P.O. Box 220
206 N. Main, Toledo, OR 97391

Phone: (541) 336-2247 ext. 111.

Service Provider No.

14567 &

License # 14568

Mobile Phone: (541) 270-2545

FORM MUST BE SUBMITTED BY UST OWNER OR OPERATOR 30 DAYS BEFORE START OF WORK

YOU MUST CONTACT YOUR LOCAL DEQ REGIONAL OFFICE 3-DAYS BEFORE STARTING ANY DECOMMISSIONING WORK. (Phone numbers are listed on reverse)

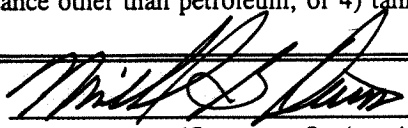
Will tank removal or potential cleanup affect adjacent property or Right-of-Way property? Yes No X

Date decommissioning is scheduled to begin: 7/1/97 (summer months - to be completed no later than 9/30/97)

Tank #	DEQ UST Permit #	Tank Size in (Gallons)	Product: Gasoline, Diesel, Used Oil, Other?		Closure or Service Change?			Tank to be Replaced?	
			Present	XXXX	Tank Removal	Closure Inplace	Other Use	Yes*	No
1	BDJKF 11432	6,000	gasoline	(none since approx. 1982)	X				X
2	BDJKG 11432	4,000	gasoline	(none since approx. 1982)	X				X
3	BDJKH 11432	4,000	gasoline	(none since approx. 1982)	X				X
4	BDJKJ 11432	550	waste oil	(none since approx. 1982)	X				X

* If decommissioned tank(s) are to be replaced by new underground storage tanks you must submit a new permit application containing information on the new tanks 30 days before placing them in service.

∞ Submit a soil sampling plan to the DEQ regional office and receive plan approval prior to starting work if 1) tank is to be decommissioned in-place, 2) tank contents are changed to a non-regulated substance, 3) tank contains a regulated substance other than petroleum, or 4) tank changed to non-regulated use.

Signature:  Date: 5/7/97
(Owner or Operator)

RECEIVED

MAY 13 1997

WESTERN REGION - SALEM OFFICE

THIS NOTICE AND THE 3-DAY TELEPHONE NOTICE ARE REQUIRED prior to starting decommissioning work on a regulated underground storage tank (UST). Decommissioning work includes but is not limited to excavation and removal of the tank and its appurtenances, removal of underground piping (product, vent and vapor recovery piping), soil sampling, and groundwater sampling. (See 40 CFR 280.71 through 40 CFR 280.74 as amended by OAR 340-150-003)

THIS NOTICE IS NOT REQUIRED for decommissioning nonregulated underground tanks. To determine whether an underground tank is regulated please refer to 40 CFR 280.10 for USTs that are excluded or deferred from regulation and 40 CFR 280.12 for the definition of an UST or contact DEQ. (Examples are heating oil tanks, most residential and farm motor fuel tanks and tanks under 110 gallons.)

ALL PAST DUE UST PERMIT FEES MUST BE PAID before this decommissioning notice will be accepted by DEQ. Please contact DEQ for UST permit application forms, if necessary.

MAKE SURE THE FORM IS COMPLETE WITH ALL ATTACHMENTS. A notice that is incomplete, (or without a permit application or without permit fee, where needed) will not be accepted as the 30 Day Notice until it is complete.

RETURN COMPLETED AND SIGNED FORM TO:

DEPARTMENT OF ENVIRONMENTAL QUALITY
UST PROGRAM - INSTALLATION AND UPGRADE NOTICE
811 S.W. SIXTH AVE.
PORTLAND, OREGON 97204

OR FAX COMPLETED AND SIGNED FORM TO:

(503) 229-6954

For information or assistance with this form call (503) 229-5733 or the UST HELPLINE: 1-800-742-7878 (Toll Free in Oregon)

3-DAY NOTICE: Contact your local DEQ Regional Office 3-days before decommission work. (Phone numbers are listed below)

REGIONAL DEQ OFFICES

NORTHWEST REGION
Phone: Portland (503) 229-5263

WESTERN REGION / SALEM
Phone: Salem (503) 378-8240

WESTERN REGION / MEDFORD
Phone: Medford (503) 776-6136, Ext. 233

WESTERN REGION / EUGENE
Phone: Eugene (503) 686-7838

EASTERN REGION / THE DALLES
Phone: The Dalles (503) 298-7255

EASTERN REGION / PENDLETON
Phone: Pendleton (503) 276-4063

EASTERN REGION / BEND
Phone: Bend (503) 388-6146



CITY OF TOLEDO

CITY HALL
P.O. Box 220
Toledo, Oregon 97391
(503) 336-2247

May 6, 1997

Mr. Jim Parr, Environmental Specialist
Western Region - Salem Office
Oregon Department of Environmental Quality
750 Front Street, N.E., Suite 120
Salem, Oregon 97310

RE: UST Facility #11432
City of Toledo, Oregon
Lincoln County
Out-of-Service Underground
Storage Tanks

Dear Mr. Parr:

Thank you for your assistance on April 10, 1997. If you recall, I telephoned to request an extension to your decommission date of June 6, 1997, as set forth in your letter of March 4, 1997.

The request was for an extension to no later than September 30, 1997 and was based on several factors, including:

- 1) Funds for removal are budgeted for the next (1997-98) fiscal year commencing 7/1/97;
- 2) The decommissioning has been planned for the driest time of the year, since the groundwater on the site is at its lowest (July-September) and general weather conditions are best;
- 3) A tenant occupies the site and must be given notice to vacate the premises; and
- 4) The old service station building (including the part the tenant uses) must be removed prior to decommissioning the site.

RECEIVED

MAY 09 1997

Mr. Jim Parr
Page Two
May 6, 1997

My recollection is you agreed to consider the City's request for extension to no later than September 30, 1997 upon the following conditions:

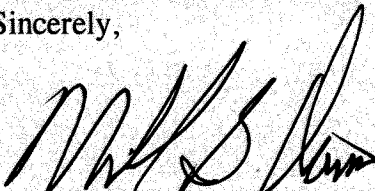
- A) The 30 day written notice of decommissioning is filed (see copy of notice filed);
- B) Any delinquent fees for the tanks be paid (see copy of check sent and interoffice memo);
- C) The City select a contractor (see copy of proposal accepted by City from Statewide Environmental Services); and
- D) The City agrees that the decommissioning project be completed no later than September 30, 1997.

The City agrees to complete the project by September 30, 1997. The terrain is quite sloped and springs sometimes run well into the summer in this area (next to City Hall). Although the thirty (30) day notice states July 1, 1997 as the date of decommissioning, because of uncertainty in the weather and groundwater conditions, the City is asking to have up to September 30, 1997 to complete the project. We also can give more notice to the City's tenant, who is a disabled person who needs to relocate his business from the site. The facility he now occupies will have to be removed, since the tanks are directly under the structure.

I hope the City has satisfied you of the benefit of this request. As we discussed, even though the project may be completed before the requested September 30, 1997 deadline, we would appreciate having the maximum flexibility during the dry season. Please advise if you have questions or need further information or action by the City.

Thank you again for your assistance.

Sincerely,



Michael G. Dowsett
Toledo City Manager

MGD:tj

Enclosures

C:\WPWIN60\WPDOCS\DOWSETT\LETTER\FIEBERTK.REM

CITY OF TOLEDO
P.O. BOX 220
TOLEDO, OR 97391-0220



Pacific One Bank

Toledo Branch 20
1-800-815-7066
112 S. Main • Toledo, OR 97391

24-666
1230

022310
CHECK NO.

****FOUR HUNDRED TWENTY AND NO/100 DOLLARS****

PAY TO THE ORDER OF:

DEPT OF ENVIRON QUALITY
811 SW SIXTH AVENUE
PORTLAND OR 97204-1390

DATE

05/05/97

AMOUNT

\$****420.00

Patty Chavarrin

Carma gmcaslin

AUTHORIZED SIGNATURES

⑈022310⑈ ⑆123006664⑆ 0001000074⑈

CHECKLIST - PERMIT APPLICATION PROCESSING

Date Received 9/8/94

Application No. _____

Facility No. 11432

SIC Code



Property Owner #

59282

Federal Form



Tank Owner #

59282

Oregon Survey Form



Permittee #

59282

No permits issued - Decommissioning form attached ☐

Tank ID:

Permit #:

Permit(s) - Date ordered

Tank ID:

Permit #:

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Fees: PIF 88-94

Comments: _____

OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY SEP 8 1994
UNDERGROUND STORAGE TANK
PERMIT APPLICATION

\$780.00
CK 13214

TANK OWNER

PLEASE PRINT CLEARLY

NAME City of Toledo

ADDRESS P.O. Box 220

Toledo, OR 97391

X

Jim Landon
TANK OWNER SIGNATURE

Jim Landon, City Manager

DATE Aug. 25, 1994

PHONE (503) 336-4336

PERMIT FEE ASSESSMENT

1988 - 1992 Fee is \$25 per year for each tank

4 Tanks at \$25 each = \$ 100

X 5 years = \$ 500

1993 to Current Year Fee is \$35 per year for each tank

4 Tanks at \$35 each = \$ 140

X 280 years = \$ 280

AMOUNT REMITTED \$ 780.00

Owners of existing tanks, who are registering for the first time, need to submit fees to cover all years beginning in 1988, through the current year.

PROPERTY OWNER

PLEASE PRINT CLEARLY

NAME City of Toledo

ADDRESS P.O. Box 220

206 N Main

Toledo, OR 97391

X

Jim Landon
PROPERTY OWNER SIGNATURE

Jim Landon, City Manager

FACILITY

11432
PLEASE PRINT CLEARLY

NAME City of Toledo

ADDRESS P.O. Box 220

200 206 N Main

Toledo, OR 97391

PHONE (503) 336-4336

SIC CODE Government

PERMITTEE

PLEASE PRINT CLEARLY

NAME City of Toledo

ADDRESS P.O. Box 220

206 N Main

Toledo, OR 97391

X

Jim Landon
PERMITTEE SIGNATURE

Jim Landon, City Manager

The DEQ will send the annual compliance invoice to the permittee.

Return this completed form, along with the completed Federal form (Notification for Underground Storage Tanks) and any fees owing to:

DEQ

Business Office

811 SW 6th

Portland, OR 97204

Each completed application must include the signature of the tank owner, the property owner and the permittee. All three signature lines must be signed, even if they are the same person.

INTEROFFICE MEMORANDUM

To: Mike
From: Teresa Jenkins
Date: April 14, 1997
Subject: Fieber Storage Tank Permit Fees

I called DEQ to get the storage tank permit fees due on the 4 storage tanks at the Fieber site.

1-800-452-4011 - Mr. Piko

\$35.00 per tank per year.

1995, 1996 & 1997 = \$420

This amount is not actually past due. DEQ did not send us a permit renewal after we paid in 1994 because they were under the impression the tanks were going to be decommissioned. The usual process for this situation is that when DEQ receives a 30 day notice of decommission, they calculate any permit fees due and send a bill which they want paid in full prior to decommissioning.

Mr. Piko suggested we send our check in the amount of \$420 with the 30 day notice and write on the check Facility No. 11432, 4 tanks, 1995, 1996 & 1997.

FROM THE DESK OF...

TERESA JENKINS
EXECUTIVE SECRETARY
CITY OF TOLEDO
P.O. BOX 220
TOLEDO, OREGON 97391

541-336-2247 EXT. 111
Fax: 541-336-3512

STATEWIDE ENVIRONMENTAL SERVICES

143 N.E. 2nd Street * Newport, Oregon 97365
Phone: (541) 265-2425 * Fax: (541) 265-5151

April 23, 1997

TO: City Of Toledo
Mr. Michael Dowsett
City Manager
206 N Main Street
Toledo, Oregon 97391

REF: Proposal for UST Decommissioning
Former Texaco Service Station
200 N. Main
Toledo, Oregon

Statewide Environmental Services is pleased to submit this proposal for the decommissioning of 5 underground storage tanks for the City Of Toledo at 200 N. Main, Toledo, Oregon.

Included with this cover letter are the Scope of Services for the proposed work and Statewide Environmental Services (SES) standard conditions of bid which are optional according to client's direction.

All work performed by Statewide Environmental Services will be in compliance with all local, state and federal regulations, with a special emphasis on safety and protection of the Environment.

The cost to Decommission these UST's by Removal is \$9,425.00.

SCOPE OF WORK:

Prior to starting project, provide client with copies of license issued by D.E.Q. to perform UST's Services in the State of Oregon and Certificate of Insurance;

Obtain local permits, if required, and Notification to D.E.Q.;

Notification of underground public utilities, for marking;

Cleaning of Tanks according to established protocol, with disposal of all rinsate;

Inerting of combustible tank vapors with carbon dioxide, (to eliminate explosion hazard), with on site vapor monitoring, to maintain safe working conditions;

Excavation of tanks, removal and disposal of the Tanks at an off-site location;

Inspection of tank excavations for visual evidence of soil contamination resulting from tank or piping leaks or spills from filling activity;

Backfilling and compaction of excavation with clean non-contaminated fill material equal to the volume of the removed tanks;

Provide client with a report documenting, UST Decommissioning activities, rinsate and tank disposal receipts and soil sampling laboratory analysis. Submit all necessary paperwork and completed forms to D.E.Q.; (with Client's approval)

The UST Decommissioning is subject to the following conditions;

Reasonable weather conditions required to complete the scheduled work;

Client reimburses S.E.S. for the pumping and disposal of petroleum product.

Client understands that if significant soil and or groundwater is contaminated with petroleum product, change order may be required to complete the project in accordance with D.E.Q. regulations. (If change order occurs, this can be negotiated by time and material basis with client.

S.E.S. appreciates the opportunity to be of service, if you require any additional information, please feel free to contact me at (541) 265-2425.

Sincerely,

Wayne Riggs
S.E.S. / Owner

STATEWIDE ENVIRONMENTAL SERVICES * PHONE: (541) 265-2425 * FAX: (541) 265-5151

Notification for Underground Storage Tanks

FORM APPROVED
OMB NO. 2050-0068
APPROVAL EXPIRES 9-30-91

Department of Environmental Quality
811 SW Sixth Ave. Portland 97204
In Oregon call Toll Free 1-800-452-4011

I.D. Number STATE USE ONLY

Date Received

GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances since January 1, 1974, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records or, in the absence of such records, your knowledge, belief, or recollection.

Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means—

(a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and

(b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances;" and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: 1. gasoline, used oil, or diesel fuel; and 2. industrial solvents, pesticides, herbicides or fumigants.

What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;
2. tanks used for storing heating oil for consumptive use on the premises where stored;
3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an intrastate pipeline facility regulated under State laws;
5. surface impoundments, pits, ponds, or lagoons;
6. storm water or waste water collection systems;
7. flow-through process tanks;
8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;
9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation after January 1, 1974, but still in the ground, must notify by May 8, 1986. 2. Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use.

Penalties. Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or for which false information is submitted.

INSTRUCTIONS

Please type or print in ink all items except "signature" in Section V. This form must be completed for each location containing underground storage tanks. If more than 5 tanks are owned at this location, photocopy the reverse side, and staple continuation sheets to this form.

Indicate number of continuation sheets attached

I. OWNERSHIP OF TANK(S)

Owner Name (Corporation, Individual, Public Agency, or Other Entity)

City of Toledo

Street Address

206 N Main

County

Lincoln

OR

97391

City

State

ZIP Code

Toledo

Area Code

503

Phone Number

336-4336

Type of Owner (Mark all that apply)

☒ Current

☒ State or Local Gov't

☐ Private or Corporate

☐ Former

☐ Federal Gov't (GSA facility I.D. no. _____)

☐ Ownership uncertain

II. LOCATION OF TANK(S)

(If same as Section I, mark box here ☐)

Facility Name or Company Site Identifier, as applicable

City of Toledo

Street Address or State Road, as applicable

200 N Main

County

Lincoln

City (nearest)

Toledo

State

OR

ZIP Code

97391

Indicate number of tanks at this location

4

Mark box here if tank(s) are located on land within an Indian reservation or on other Indian trust lands ☐

III. CONTACT PERSON AT TANK LOCATION

Name (If same as Section I, mark box here ☐)

Jim Landon

Job Title

City Manager

Area Code

503

Phone Number

336-4336

IV. TYPE OF NOTIFICATION

☐ Mark box here only if this is an amended or subsequent notification for this location.

V. CERTIFICATION (Read and sign after completing Section VI.)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name and official title of owner or owner's authorized representative

City Manager

Signature

Jim Landon

Date Signed

8/25/94

CONTINUE ON REVERSE SIDE

VI. DESCRIPTION OF UNDERGROUND STORAGE TANKS (Complete for each tank at this location.)

Form 7530-1 (Revised 9-88) Reverse

465.330 State remedial action costs; payment; effect of failure to pay. (1) The Department of Environmental Quality shall keep a record of the state's remedial action costs.

(2) Based on the record compiled by the department under subsection (1) of this section, the department shall require any person liable under ORS 465.255 or 465.260 to pay the amount of the state's remedial action costs and, if applicable, punitive damages.

(3) If the state's remedial action costs and punitive damages are not paid by the liable person to the department within 45 days after receipt of notice that such costs and damages are due and owing, the Attorney General, at the request of the Director of the Department of Environmental Quality, shall bring an action in the name of the State of Oregon in a court of competent jurisdiction to recover the amount owed, plus reasonable legal expenses.

(4) All moneys received by the department under this section shall be deposited in the Hazardous Substance Remedial Action Fund established under ORS 465.381 if the moneys received pertain to a removal or remedial action taken at any facility. [Formerly 466.580]

465.255 Strict liability for remedial action costs for injury or destruction of natural resource; limited exclusions. (1) The following persons shall be strictly liable for those remedial action costs incurred by the state or any other person that are attributable to or associated with a facility and for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator at or during the time of the acts or omissions that resulted in the release.

(b) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in the release, and who knew or reasonably should have known of the release when the person first became the owner or operator.

(c) Any owner or operator who obtained actual knowledge of the release at the facility during the time the person was the owner or operator of the facility and then subsequently transferred ownership or operation of the facility to another person without disclosing such knowledge.

(d) Any person who, by any acts or omissions, caused, contributed to or exacerbated the release, unless the acts or omissions were in material compliance with applicable laws, standards, regulations, licenses or permits.

(e) Any person who unlawfully hinders or delays entry to, investigation of or removal or remedial action at a facility.

(2) Except as provided in subsection (1)(c) to (e) of this section and subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) Any owner or operator who became the owner or operator after the time of the acts or omissions that resulted in a release, and who did not know and reasonably should not have known of the release when the person first became the owner or operator.

(b) Any owner or operator if the release at the facility was caused solely by one or a combination of the following:

(A) An act of God. "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

(B) An act of war.

(C) Acts or omissions of a third party, other than an employee or agent of the person asserting this defense, or other than a person whose acts or omissions occur in connection with a contractual relationship, existing directly or indirectly, with the person asserting this defense. As used in this subparagraph, "contractual relationship" includes but is not limited to land contracts, deeds or other instruments transferring title or possession.

(3) Except as provided in subsection (1)(c) to (e) of this section or subsection (4) of this section, the following persons shall not be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, or for damages for injury to or destruction of any natural resources caused by a release:

(a) A unit of state or local government that acquired ownership or control of a facility in the following ways:

(A) Involuntarily by virtue of its function as sovereign, including but not limited to escheat, bankruptcy, tax delinquency or abandonment; or

(B) Through the exercise of eminent domain authority by purchase or condemnation.

(b) A person who acquired a facility by inheritance or bequest.

(c) Any fiduciary exempted from liability in accordance with rules adopted by the Environmental Quality Commission under ORS 465.440.

(d) An authority that becomes the owner or operator of the facility as authorized in ORS 465.609.

(e) A receiver appointed under ORS 37.020 to 37.410.

(4) Notwithstanding the exclusions from liability provided for specified persons in subsections (2) and (3) of this section such persons shall be liable for remedial action costs incurred by the state or any other person that are attributable to or associated with a facility, and for damages for injury to or destruction of any natural resources caused by a release, to the extent that the person's acts or omissions contribute to such costs or damages, if the person:

(a) Obtained actual knowledge of the release and then failed to promptly notify the Department of Environmental Quality and exercise due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances; or

(b) Failed to take reasonable precautions against the reasonably foreseeable acts or omissions of a third party and the reasonably foreseeable consequences of such acts or omissions.

(5)(a) No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from any person who may be liable under this section, to any other person, the liability imposed under this section. Nothing in this section shall bar any agreement to insure, hold harmless or indemnify a party to such agreement for any liability under this section.

(b) A person who is liable under this section shall not be barred from seeking contribution from any other person for liability under ORS 465.200 to 465.545 and 465.900.

(c) Nothing in ORS 465.200 to 465.545 and 465.900 shall bar a cause of action that a person liable under this section or a guarantor has or would have by reason of subrogation or otherwise against any person.

(d) Nothing in this section shall restrict any right that the state or any person might have under federal statute, common law or other state statute to recover remedial action costs or to seek any other relief related to a release.

(6) To establish, for purposes of subsection (1)(b) of this section or subsection (2)(a) of this section, that the person did or did not have reason to know, the person must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the

property consistent with good commercial or customary practice in an effort to minimize liability.

(7)(a) Except as provided in paragraph (b) of this subsection, no person shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with rules adopted under ORS 465.400 or at the direction of the department or its authorized representative, with respect to an incident creating a danger to public health, safety, welfare or the environment as a result of any release of a hazardous substance. This paragraph shall not preclude liability for costs or damages as the result of negligence on the part of such person.

(b) No state or local government shall be liable under ORS 465.200 to 465.545 and 465.900 for costs or damages as a result of actions taken in response to an emergency created by the release of a hazardous substance generated by or from a facility owned by another person. This paragraph shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the state or local government. For the purpose of this paragraph, reckless, willful or wanton misconduct shall constitute gross negligence.

(c) This subsection shall not alter the liability of any person covered by subsection (1) of this section. [Formerly 466.567; 1991 c.680 §9; 1991 c.692 §1; 2015 c.631 §9; 2017 c.358 §44]

465.260 Removal or remedial action; reimbursement of costs; liability; damages. (1) The Director of the Department of Environmental Quality may undertake any removal or remedial action necessary to protect the public health, safety, welfare and the environment.

(2) The director may authorize any person to carry out any removal or remedial action in accordance with any requirements of or directions from the director, if the director determines that the person will commence and complete removal or remedial action properly and in a timely manner.

(3) Nothing in ORS 465.200 to 465.545 and 465.900 shall prevent the director from taking any emergency removal or remedial action necessary to protect public health, safety, welfare or the environment.

(4) The director may require a person liable under ORS 465.255 to conduct any removal or remedial action or related actions necessary to protect the public health, safety, welfare and the environment. The director's action under this subsection may include but need not be limited to issuing an order specifying the removal or remedial action the person must take.

(5) The director may request the Attorney General to bring an action or proceeding for legal or equitable relief, in the circuit court of the county in which the facility is located or in Marion County, as may be necessary:

(a) To enforce an order issued under subsection (4) of this section; or

(b) To abate any imminent and substantial danger to the public health, safety, welfare or the environment related to a release.

(6) Notwithstanding any provision of ORS chapter 183, and except as provided in subsection (7) of this section, any order issued by the director under subsection (4) of this section shall not be appealable to the Environmental Quality Commission or subject to judicial review.

(7)(a) Any person who receives and complies with the terms of an order issued under subsection (4) of this section may, within 60 days after completion of the required action, petition the director for reimbursement from the fund for the reasonable costs of such action.

(b) If the director refuses to grant all or part of the reimbursement, the petitioner may, within 30 days of receipt of the director's refusal, file an action against the director seeking reimbursement from the fund in the circuit court of the county in which the facility is located or in the Circuit Court of Marion County. To obtain reimbursement, the petitioner must establish by a preponderance of the evidence that the petitioner is not liable under ORS 465.255 and that costs for which the petitioner seeks reimbursement are reasonable in light of the action required by the relevant order. A petitioner who is liable under ORS 465.255 may also recover reasonable remedial action costs to the extent that the petitioner can demonstrate that the director's decision in selecting the removal or remedial action ordered was arbitrary and capricious or otherwise not in accordance with law.

(8) If any person who is liable under ORS 465.255 fails without sufficient cause to conduct a removal or remedial action as required by an order of the director, the person shall be liable to the department for the state's remedial action costs and for punitive damages not to exceed three times the amount of the state's remedial action costs.

(9) Nothing in this section is intended to interfere with, limit or abridge the authority of the State Fire Marshal or any other state agency or local unit of government relating to an emergency that presents a combustion or explosion hazard. [Formerly 466.570]